

**TRINITY COUNTY PLANNING COMMISSION
STAFF REPORT**

APPLICANT: Trinity County

REPORT BY: Leslie Hubbard

APN: Countywide

PROJECT DESCRIPTION:

Amendment to the County's Zoning Ordinance Regarding Section 43.2 Allowing for Commercial Manufacturing of Cannabis.

LOCATION: Countywide

PURPOSE:

The purpose of this item is for the Planning Commission to discuss and provide recommendations to the Board of Supervisors regarding several proposed amendments to existing local regulations regarding Cannabis manufacturing.

BACKGROUND INFORMATION:

This ordinance has appeared before the Planning Commission and Board of Supervisors numerous times in 2017 and 2018:

The Planning Commission heard this item on October 26 and December 7, 2017 and on January 11 and May 24, 2018.

The Board of Supervisors heard the item on April 17, May 1 and July 17, 2018 before enacting the ordinance on August 7, 2018 as Ordinance No.315-838 (Exhibit A).

During the August 7, 2018 Board of Supervisors meeting, the Board requested that the item return to the Planning Commission to consider several issues as indicated in the proposed amendment (Exhibit B):

- 1) Shared Use Facilities;
- 2) An amended approach to use permit requirements and additional allowable zoning districts

STAFF EVALUATION:

Shared-Use Facilities

The California Department of Public Health's Manufactured Cannabis Safety Branch (MCSB) is one of three state licensing authorities charged with and responsible for licensing and regulating commercial Cannabis activity in California.

According to their website, the goal is to “strive to protect public health and safety by ensuring commercial cannabis manufacturers operate safe, sanitary workplaces and follow good manufacturing practices to produce products that are free of contaminants, meet product guidelines and are properly packaged and labeled.”

MCSB published proposed regulations on July 13, 2018 (Exhibit C), although these proposed regulations are undergoing a formal rulemaking process and are not yet in effect. A summary of the proposed changes from the emergency regulations is attached (Exhibit D).

On March 23, 2018, MCSB released proposed emergency regulations that would allow cannabis manufacturers to utilize shared-use facilities. These regulations were developed to provide opportunities for small manufacturing businesses and in response to demand from cities and counties wishing to implement equity programs. The facilities must be cannabis specific and are expected to resemble community kitchens or locations in which a larger manufacturer offers use of space and equipment to a smaller manufacturer. The emergency regulations for shared-use facilities were approved and went into effect on April 13, 2018 (Exhibit E).

MCSB regulations defines Shared-Use Facilities: a manufacturing premises operated by a Type 7, Type 6, or Type N licensee in which Type S licensees are authorized to conduct manufacturing operations.

The State does not issue or require a license for the Shared-Use Facility itself. The site must be operated by a manufacturing licensee (the “primary licensee”) who must register the site as a Shared-Use Facility. Use agreements are then developed between the primary licensee (who can hold a Type 7, Type 6, or type N license) and a Type S applicant or licensee.

The MCSB allows Type S licensees to conduct the following operational activities:

- 1) Infusions;
- 2) Packaging and labeling of cannabis products; and
- 3) Extractions with butter or food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the Type S licensee's infused product, and shall not be sold to any other licensee.

Discussion points associated with Shared-Use Facilities for the Planning Commission to consider include:

- Allowable zoning districts The proposed amendment to the manufacturing ordinance includes all allowable zoning districts for all manufacturing license types. Although the State does not allow a Shared-use Facility to conduct some of the activities permitted under a Type 6 license and none of the activities permitted under a Type 7 license, Staff recommended all of the zoning districts allowed for all manufacturing activities based on the premise that a Type 6 or Type 7 licensee, if designated as primary licensee operating the Shared-Use

Facility, could reasonably be located in a zoning district appropriate for additional manufacturing activities.

- Use Permit requirements In the proposed amendment, Staff recommended that all Shared-Use Facilities obtain a Conditional Use Permit prior to operations based on the assumption that the facilities will inherently include more intensive land uses such as increased traffic and noise.

An Amended Approach to Use Permit Requirements and Additional Allowable Zoning Districts

On August 7, 2018, the Board enacted an ordinance providing regulations allowing for the manufacturing of Cannabis that included the requirement for a Conditional Use Permit for all manufacturing activities.

The proposed amendment to the ordinance includes the ability for manufacturing licensees to obtain “the appropriate Use Permit” that would include a Director’s Use Permit or a Conditional Use Permit based on the type and level of activity proposed.

Staff assessed specific manufacturing methods and identified the following manufacturing techniques that are low-impact in terms of posing a risk to public health and safety: Rosen Pressing, Bubble/Water Hash and Kief/Dry Sifting. The proposed amendment includes the option for a Type 6 licensee to obtain a Director’s Use Permit rather than a Conditional Use Permit if these mechanical or low-impact manufacturing techniques are used and if several additional requirements are met. The additional requirements are related to anticipated impacts already considered by the Commission for other licensed Cannabis activities including the number of employees or employee hours and traffic impacts. Staff also included the provision that low-impacts uses proposed within existing buildings would be appropriate for a Director’s Use Permit as would locations accessed via shared and privately-owned roads or driveways as long as adjacent impacted owners are notified and conflicts are not raised during initial phases of application review.

In addition, Staff assessed appropriate zoning districts for these mechanical, low-impact manufacturing processes and recommends that the Commission discuss including them as allowable zoning districts due to their low risk to public health or safety:

- Rural Residential
- Ag Forest
- Unclassified
- Agricultural Preserve

As directed by the Board of Supervisors, staff recommends that the Planning Commission discuss these items, then make a recommendation of amendments to Ordinance No. 315-838 to the Board of Supervisors.

ENVIRONMENTAL EVALUATION:

The County finds that this Chapter is not subject to the California Environmental Quality Act (CEQA) pursuant to 14 Cal Code Regs. Sec. 15378(b)(5) and is an administrative activity that will not result in a direct or reasonable foreseeable indirect physical change in the environment. The granting of individual Cannabis manufacturing licenses will either require a Planning Commission-issued Conditional Use Permit requiring the applicant to complete a Project Initial Study-Environmental Checklist and Evaluation of Environmental Impacts or projects will qualify for a categorical exemption under CEQA and obtain a Director's Use Permit prior to operation.

Respectfully submitted,

Leslie Hubbard
Deputy Director of Planning

EXHIBIT A

ORDINANCE NO. 315-838

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY AMENDING ZONING ORDINANCE NO. 315 BY CREATING SECTION 28.2 ALLOWING FOR COMMERCIAL MANUFACTURING OF CANNABIS

The Board of Supervisors of the County of Trinity hereby finds and declares the following:

Section 1: Findings and Declarations:

1. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 and entitled “The Compassionate Use Act of 1996”). The intent of Proposition 215 was to ensure that seriously ill Californians have the right to obtain and use Cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, and to ensure that patients and their primary caregivers who obtain and use Cannabis for medical purposes upon the recommendation of a physician are not thereby subject to criminal prosecution or sanction.
2. The State enacted SB 420 in 2004 known as the Medical Marijuana Program Act (codified as Health and Safety Code section 11362.7et seq.) to clarify the scope of The Compassionate Use Act of 1996, facilitate the prompt identification of qualified patients and primary caregivers avoid unnecessary arrest and prosecution of these individuals, provide needed guidance to law enforcement officers, promote uniform and consistent application of the Act and enhance the access of patients and caregivers to medical Cannabis through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB420.
3. On September 11, 2015, the State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) which took effect January 1, 2016, and which mandated a comprehensive state licensure and regulatory framework for cultivation, manufacturing, distribution, transportation, testing and dispensing of medical Cannabis on a commercial basis. MMRSA was amended by SB 837. On June 27, 2017, the State enacted the Medicinal and Adult-Use Cannabis Regulation and Safety Act setting forth regulations for State licensure beginning in January, 2018.
4. Previous landmark Cannabis legislation, including the Compassionate Use Act and the Medical Marijuana Program Act have precipitated a “green rush” with individuals moving to Trinity County to grow and manufacturing Cannabis; with some seeking to capitalize on ambiguities in the law while others lack an awareness of community and environmental consciousness.
5. Senate Bill 94 known as the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), established a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing and sale of both of the following:(1) Medicinal Cannabis and medicinal Cannabis products for patients with valid physician’s recommendations; and (2) Adult-use Cannabis and adult-use Cannabis products for

adults 21 years of age and over.

6. In the absence of a formal regulatory framework, Cannabis manufacturers are less likely to learn of, or implement, guidelines that are protective of the public peace health, safety and the environment.
7. It is the purpose and intent of this Chapter to protect the health, safety, and general welfare of the residents and businesses within Trinity County and comply with state law and federal guidelines.
8. It is the intent of the County of Trinity to have a strong and effective regulatory and enforcement system with regard to Cannabis that addresses threats to public safety, health and other law enforcement interests through robust controls and procedures that are effective in practice.
9. This ordinance provides regulations and control over manufacturing of Cannabis, and prevents the potential introduction of dangerous product and practices within the County.

Section 2: Application

The County hereby enacts the following as Section 28.5 of the Trinity County Zoning Ordinance No.315: Cannabis Manufacturing

1. Definitions:

- A. "Cannabis" and "Marijuana" are used interchangeably and mean any plant of the genus Cannabis, as defined by section 11018 of the Health and Safety Code.
- B. "Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product. In addition, "*Manufacturer*" means a licensee that conducts the production, preparation or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination or extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.
- C. "Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent, including carbon dioxide and ethanol. This requires a Type 6 license which allows for extraction using mechanical methods or nonvolatile solvents.
- D. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed preschool or child day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, excluding homeschools.
- E. "Volatile solvent" means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. The state's examples of volatile solvents include, butane, hexane, and propane. Type 7 licensee can use both nonvolatile and volatile solvents in its extractions, infusions or mechanical methods.
- F. "Youth-oriented facility" means public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

2. Allowable Zoning Districts

- A. Nonvolatile or mechanical methods Cannabis manufacturing facilities (requiring a Type 6, Type N and Type P State License) may be permitted in the following zoning districts subject to first obtaining a Conditional Use Permit:

General Commercial (“C2”)

Heavy Commercial (“C3”)

Industrial (“I”)

Agricultural (“A”)

Specific Unit Development (“SUD”), whose guidelines specifically identify parcels for industrial development.

Agricultural Preserve (“AP”)

- B. Cannabis manufacturing facilities involving volatile, nonvolatile, or mechanical methods, processes or substances (requiring a Type 7 State license) may be permitted in the following zoning districts subject to first obtaining a Conditional Use Permit:

Heavy Commercial (“C3”)

Industrial (“I”)

Specific Unit Development (“SUD”), whose guidelines specifically identify parcels for industrial development.

- C. Cannabis manufacturing facilities shall not be allowed within the following areas:
- a. Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.
 - b. Within the legal boundaries of the Historic District of Weaverville; Coffee Creek Volunteer Fire District; Trinity Center Community Services District; and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance.

3. Types of Licenses Available:

- A. Type 6 Licenses are available for extractions using nonvolatile solvents or mechanical methods.
- B. Type 7 Licenses are available for extractions using volatile substances.
- C. Type N licenses are available for infusions, including using pre-extracted oils to create edibles, beverages, capsules, water cartridges, tinctures or topical.
- D. Type P Licenses are available for packaging and labeling only.

4. Regulations:

Cannabis manufacturing shall comply with all of the following regulations:

- A. Cannabis manufacturing facilities shall be located only in zones that specifically provide for this use. The facility shall not be on prime Agricultural Soil, as determined by the Planning Director or his/her designee.
- B. Cannabis manufacturing facilities shall not be allowed within one thousand (1,000) feet of a youth-oriented facility, school, church, or residential treatment facility as defined herein. Cannabis manufacturing facilities shall not be within five hundred (500) feet from an authorized school bus stop, unless a variance is obtained.
- C. All Cannabis manufacturing operations shall ensure that Cannabis is obtained from licensed cultivation sources and shall implement best practices and comply with State law to ensure that all manufactured Cannabis products are properly stored, labeled, transported and inspected prior to distribution at a legally permitted and licensed retail outlet. Cannabis manufacturing operations shall purchase at least 75% of its Cannabis from Trinity County sources.
- D. Security plan shall be developed which is compliant with State requirements and submitted with an application and must be sufficient to restrict access to only those intended and to deter trespass and theft of Cannabis or Cannabis products shall be provided and maintained. The Security plan shall be approved by the Board of Supervisors, or its designee.
- E. A detailed Operating Site Plan must be submitted with an application for a Conditional Use Permit.
- F. Fire plans must be prepared by the applicant and approved by the Weaverville Fire District Chief or a designee of the Trinity County Board of Supervisors. An approved fire plan must be submitted with an application for a Conditional Use Permit.
- G. Applicants must apply for Certified Unified Program Agencies (“CUPA”) which, for Trinity County, is administered through the Department of Toxic Substances Control.
- H. Any employees of a Cannabis manufacturing facility operating potentially hazardous equipment shall be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible Cannabis products or ingredients shall be trained on proper food safety practices.
- I. Any license holder of a manufacturing license shall not have been convicted of serious felony or Schedule I, II or III Felony, excluding a non-serious felony conviction for sale, transportation or cultivation of Cannabis except if the conviction is on public lands. Applicants will have to declare this under penalty of perjury on one of the application forms.
- J. For Type 7 licenses the following additional requirements must be met:
 - i. Extractions must be in closed loop system as defined and prescribed by State of California.
 - ii. Wastewater shall be disposed of in to an adequate sewage system, as prescribed by Trinity County Environmental Health Division and pursuant to California State regulations.
 - iii. The facility must be setback a minimum of 100 feet from all adjacent property

lines. Application for a variance from this provision will be considered concurrently with application for a Conditional Use Permit from the Trinity County Planning Commission.

- iv. All building structures must have operational automatic fire sprinklers.

5. Required Findings:

- A. A Conditional Use Permit for Cannabis manufacturing shall not be granted by the appropriate authority unless all of the following findings are made based on substantial evidence:
- B. The manufacturing facility will comply with all of the requirements of the State and County for the Cannabis manufacturing. This includes, but is not limited to, product safety, THC levels, edible standards, timelines, packaging and labeling requirements.
- C. The manufacturing, as approved and conditioned will not result in significant unavoidable impacts on the environment.
- D. The manufacturing includes adequate quality control measures to ensure Cannabis manufactured at the site meets industry State standards.
- E. The manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids or substances.
- F. The manufacturing operations plan includes adequate measures that address the federal enforcement priorities for Cannabis activities.

6. Required Conditions:

In addition to any other conditions and mitigation that apply to all permits for Cannabis manufacturing:

- A. The manufacturer shall allow access to the facility and access to records if requested by the County, its officers, or agents, for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations and conditions.
- B. The applicant for the manufacturing facility and the property owner shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial Cannabis activity.
- C. Any person operating a Cannabis manufacturing facility shall obtain a valid and fully executed commercial Cannabis manufacturing license from the State prior to commencing operations, and must maintain such license in good standing in order to continue operations.
- D. The property owner shall be responsible for ensuring that all commercial Cannabis activities at the site operate in good standing with permits and licenses required by the Trinity County Code and State law. Failure to take appropriate action to evict or otherwise remove operators who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Conditional Use Permit pursuant to this Chapter.
- E. The manufacturing facilities and activities shall be maintained in accordance with the operating plans approved by the County.

- F. The Cannabis Manufacturing Program Fee is due annually from date of issuance and is set at:
 - i. Type 6: \$5,000.00 plus \$1,000 towards the General Plan update.
 - ii. Type 7: \$6,000.00 plus \$1,000 towards the General Plan update.
 - iii. Type N: \$2,000.00 plus \$500 towards the General Plan update.
 - iv. Type P: \$2,000.00 plus \$500 towards the General Plan update.
- G. The above Fee amounts are not anticipated to fully cover the cost of administering this Ordinance; however, within twelve months of this Ordinance, the County shall conduct a fee study to determine the total cost of administering this Ordinance.
 - i. If, based on the results of the fee study, the fee needs to be increased; the County may increase the Fee by way of resolution for any new or renewal registrations.
 - ii. If, based on the results of the fee study, the fee exceeds the cost of administering this Ordinance the County shall decrease the fee by way of resolution and shall also reimburse applicants their proportional share of any overpayment.

7. Denial/Rescission of License:

- A. Applicant's Application shall be denied or the issuance of a license rescinded if the Trinity County becomes aware of any of the following:
 - i. The applicant has provided materially false documents or testimony;
 - ii. The operation as proposed if permitted, would not comply with all applicable laws including but not limited to the Building, Planning, Housing, Fire and Health Codes of the County including the provisions of this Chapter and with all applicable laws including zoning and county ordinances;
- B. Applicant shall be given a minimum of seven (7) business days to correct any deficiencies prior to the issuance of a denial or rescission.
- C. Applicant or Licensee shall have the right to appeal any denials or rescissions as prescribed in Chapter 8.90.130 of the Trinity County Code.

Section 3: CEQA

The County finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant Business and Professions Code section 26055(h) until July 1, 2019 because this Ordinance requires discretionary review for the individual licenses that are provided for within.

The County finds that this Chapter is not subject to the California Environmental Quality Act (CEQA) pursuant to 14 Cal.Code Regs.Sec. 15378(b)(5) and is an administrative activity that will not result in direct or indirect physical changes in the environment. The establishment of individual Cannabis manufacturing operations will require a Planning Commission-issued Conditional Use Permit requiring the applicant to complete a Project Initial Study-Environmental Checklist and Evaluation of Environmental Impacts.

Section 4: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Trinity Journal, a newspaper of general circulation published in the County of Trinity State of California.

Introduced at a regular meeting of the Board of Supervisors held on the 17th day of July, 2018, and passed and enacted this 7th day of August, 2018, by the Board of Supervisors of the County of Trinity by motion, second (Chadwick/Morris), and the following vote:

- AYES: Supervisors Morris, Chadwick, Fenley and Groves
- NOES: None
- ABSENT: None
- ABSTAIN: None
- RECUSE: Supervisor Mines



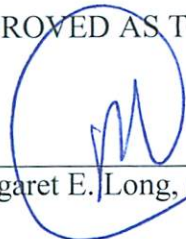
KEITH GROVES, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:

RICHARD KUHNS, Psy.D
Clerk of the Board of Supervisors

By: 
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:



Margaret E. Long, County Counsel

EXHIBIT B

ORDINANCE NO. 315-XXX

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY AMENDING ZONING ORDINANCE NO. 315 BY CREATING SECTION ~~2843.2~~ ALLOWING FOR COMMERCIAL MANUFACTURING OF CANNABIS

The Board of Supervisors of the County of Trinity hereby finds and declares the following:

Section 1: Findings and Declarations:

1. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 and entitled “The Compassionate Use Act of 1996”). The intent of Proposition 215 was to ensure that seriously ill Californians have the right to obtain and use Cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, and to ensure that patients and their primary caregivers who obtain and use Cannabis for medical purposes upon the recommendation of a physician are not thereby subject to criminal prosecution or sanction.
2. The State enacted SB 420 in 2004 known as the Medical Marijuana Program Act (codified as Health and Safety Code section 11362.7et seq.) to clarify the scope of The Compassionate Use Act of 1996, facilitate the prompt identification of qualified patients and primary caregivers avoid unnecessary arrest and prosecution of these individuals, provide needed guidance to law enforcement officers, promote uniform and consistent application of the Act and enhance the access of patients and caregivers to medical Cannabis through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB420.
3. On September 11, 2015, the State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) which took effect January 1, 2016, and which mandated a comprehensive state licensure and regulatory framework for cultivation, manufacturing, distribution, transportation, testing and dispensing of medical Cannabis on a commercial basis. MMRSA was amended by SB 837. On June 27, 2017, the State enacted the Medicinal and Adult-Use Cannabis Regulation and Safety Act setting forth regulations for State licensure beginning in January, 2018.
4. Previous landmark Cannabis legislation, including the Compassionate Use Act and the Medical Marijuana Program Act have precipitated a “green rush” with individuals moving to Trinity County to grow and manufacturing Cannabis; with some seeking to capitalize on ambiguities in the law while others lack an awareness of community and environmental consciousness.
5. Senate Bill 94 known as the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), established a comprehensive system to control and regulate the

cultivation, distribution, transport, storage, manufacturing, processing and sale of both of the following:(1) Medicinal Cannabis and medicinal Cannabis products for patients with valid physician’s recommendations; and (2) Adult-use Cannabis and adult-use Cannabis products for adults 21 years of age and over.

6. In the absence of a formal regulatory framework, Cannabis manufacturers are less likely to learn of, or implement, guidelines that are protective of the public peace health, safety and the environment.
7. It is the purpose and intent of this Chapter to protect the health, safety, and general welfare of the residents and businesses within Trinity County and comply with state law and federal guidelines.
8. It is the intent of the County of Trinity to have a strong and effective regulatory and enforcement system with regard to Cannabis that addresses threats to public safety, health and other law enforcement interests through robust controls and procedures that are effective in practice.
9. This ordinance provides regulations and control over manufacturing of Cannabis, and prevents the potential introduction of dangerous product and practices within the County.

Section 2: Application

The County hereby enacts the following as Section 28.5 of the Trinity County Zoning Ordinance No.315: Cannabis Manufacturing

1. Definitions:

- A. “Cannabis” and “Marijuana” are used interchangeably and mean any plant of the genus Cannabis, as defined by section 11018 of the Health and Safety Code.
- B. “Manufacture” means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product. In addition, “*Manufacturer*” means a licensee that conducts the production, preparation or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination or extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.
- C. “Nonvolatile solvent” means any solvent used in the extraction process that is not a volatile solvent, including carbon dioxide and ethanol. This requires a Type 6 license which allows for extraction using mechanical methods or nonvolatile solvents.
- D. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed preschool or child day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, excluding homeschools.
- E. [“Shared-Use Facility” means a manufacturing premises operated by a Type 6, Type N, or Type 7 licensee in which Type S licensees are authorized to conduct manufacturing operations. Shared Use Facilities shall be operated in accordance with California Code of Regulations, Title 17 Division 1 Chapter 13,](#)

Manufactured Cannabis Safety SUBCHAPTER 1, General Provisions and Definitions, Article 6 Shared-Use Facilities, or as those provisions are amended.

- F. “Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. The state’s examples of volatile solvents include, butane, hexane, and propane. Type 7 licensee can use both nonvolatile and volatile solvents in its extractions, infusions or mechanical methods.
- G. “Youth-oriented facility” means public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

2. Allowable Zoning Districts

- A. Nonvolatile or mechanical methods Cannabis manufacturing facilities (requiring a Type 6, Type N and Type P State License) may be permitted in the following zoning districts subject to first obtaining a ~~Conditional~~ the appropriate Use Permit, See section (4)(J – M):

- General Commercial (“C2”)
- Heavy Commercial (“C3”)
- Industrial (“I”)
- Agricultural (“A”)
- Specific Unit Development (“SUD”), whose guidelines specifically identify parcels for industrial development.
- Agricultural Preserve (“AP”)
- Ag Forest (“AF”)

- B. Cannabis manufacturing facilities licensed as microbusinesses and involving Type 6 mechanical or low-impact extraction, which is limited to Rosen Pressing, Bubble/Water Hash or Kief/Dry Sifting, may be permitted in the following zoning districts, subject to first obtaining the appropriate Use Permit:

- Rural Residential
- Ag Forest
- Unclassified
- Agricultural Preserve (“AP”)

- C. Cannabis manufacturing facilities involving volatile, nonvolatile, or mechanical methods, processes or substances (requiring a Type 7 State license) may be permitted in the following zoning districts subject to first obtaining a Conditional Use Permit:

- Heavy Commercial (“C3”)

Industrial (“I”)
Specific Unit Development (“SUD”), whose guidelines specifically identify parcels for industrial development.

D. Shared use facilities may be permitted in the following zoning districts subject to first obtaining the appropriate Use Permit. See section (4)(J – M):

General Commercial (“C2”)
Heavy Commercial (“C3”)
Industrial (“I”)
Agricultural (“A”)
Specific Unit Development (“SUD”), whose guidelines specifically identify parcels for industrial development.
Agricultural Preserve (“AP”)
Ag Forest
Rural Residential

D.E. Cannabis manufacturing facilities shall not be allowed within the following areas:

- a. Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.
- b. Within the legal boundaries of the Historic District of Weaverville; Coffee Creek Volunteer Fire District; Trinity Center Community Services District; and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance.

3. Types of Licenses Available:

- A. ~~Type 6~~ Non-volatile Licenses are available for extractions using nonvolatile solvents or mechanical methods.
- B. ~~Type 7~~ Volatile Licenses are available for extractions using volatile substances.
- C. State Type N licenses are available for infusions, including using pre-extracted oils to create edibles, beverages, capsules, water cartridges, tinctures 540 or topical.
- D. State Type P Licenses are available for packaging and labeling only.
- E. State Type S Licenses are available for licensees who are authorized to conduct manufacturing operations at a registered “shared-use facility” and may be used for Type N or Type P licenses and ~~Type 6~~ Non-volatile e ~~Ex~~tractions with butter or

food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the Type S licensee's infused product, and shall not be sold to any other licensee.

4. Regulations:

Cannabis manufacturing shall comply with all of the following regulations:

- A. Cannabis manufacturing facilities shall be located only in zones that specifically provide for this use. The facility shall not be on prime Agricultural Soil, as determined by the Planning Director or his/her designee.
- B. Cannabis manufacturing facilities shall not be allowed within one thousand (1,000) feet of a youth-oriented facility, school, church, or residential treatment facility as defined herein. Cannabis manufacturing facilities shall not be within five hundred (500) feet from an authorized school bus stop, unless a variance is obtained.
- C. All Cannabis manufacturing operations shall ensure that Cannabis is obtained from licensed cultivation sources and shall implement best practices and comply with State law to ensure that all manufactured Cannabis products are properly stored, labeled, transported and inspected prior to distribution at a legally permitted and licensed retail outlet. Cannabis manufacturing operations shall purchase at least 75% of its Cannabis from Trinity County sources.
- D. Security plan shall be developed which is compliant with State requirements and submitted with an application and must be sufficient to restrict access to only those intended and to deter trespass and theft of Cannabis or Cannabis products shall be provided and maintained. The Security plan shall be approved by the Board of Supervisors, or its designee.
- E. A detailed Operating Site Plan must be submitted with an application for a ~~Conditional~~ the appropriate Use Permit, See section (4) (J – M).
- F. Fire plans must be prepared by the applicant and approved by the Weaverville Fire District Chief or a designee of the Trinity County Board of Supervisors. An approved fire plan must be submitted with an application for a ~~Conditional~~ the appropriate Use Permit, See section (4) (J – M).
- G. Applicants must apply for Certified Unified Program Agencies (“CUPA”) which, for Trinity County, is administered through the Department of Toxic Substances Control.
- H. Any employees of a Cannabis manufacturing facility operating potentially hazardous equipment shall be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible Cannabis products or ingredients shall be trained on proper food safety practices.
- I. Any license holder of a manufacturing license shall not have been convicted of serious felony or Schedule I, II or III Felony, excluding a non-serious felony conviction for sale, transportation or cultivation of Cannabis except if the conviction is on public lands. Applicants will have to declare this under penalty of perjury on one of the application forms.

- J. For Type 7 licenses applicants are required to obtain a Conditional Use Permit before starting operations, including infrastructure and building improvements, and, the following additional requirements must be met:
- a. Extractions must be in closed loop system as defined and prescribed by State of California.
 - b. Wastewater shall be disposed of in to an adequate sewage system, as prescribed by Trinity County Environmental Health Division and pursuant to California State regulations.
 - c. The facility must be setback a minimum of **100 feet** from all adjacent property lines. Application for a variance from this provision will be considered concurrently with application for a Conditional Use Permit from the Trinity County Planning Commission.
 - d. All building structures must have operational automatic fire sprinklers.
- K. Type 6, Type 7 or Type N licensees who wish to register as a Shared Use Facility shall obtain a Conditional Use Permit before starting operations, including infrastructure and building improvements.
- L. For Type 6 licenses the following requirements must be met to qualify for a Director' Use Permit:
- a. The manufacturing business:
 1. Operates under a Type N or Type P license
 2. Utilizes extractions with butter or food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the licensee's infused product, and shall not be sold to any other licensee.
 3. Utilizes extractions methods limited to Rosen Pressing, Bubble/Water Hash or Kief/Dry Sifting
 4. Any post-extraction methods that involve substances included in Title 8. Industrial Relations Division 1. Department of Industrial Relations Chapter 3.2. California Occupational Safety and Health Regulations (Cal/OSHA) Subchapter 1. Regulations of the Director of Industrial Relations Article 5. Hazardous Substances Information and Training (Refs & Annos) CCR § 339 The Hazardous Substances List may require a Conditional Use Permit, as determined by ~~the Director of a designee of the~~ -Trinity County ~~Planning Department~~Board of Supervisors.
 - b. The manufacturing business does not employ more than three permanent, full-time employees, and/or does not compensate more than 6,240 employee work hours per year; and,
 - c. The manufacturing business does not generate more than two non-employee vehicles per week; and,
 - d. The manufacturing facilities are operated within the footprint of an existing building. ~~where modifications are limited to 100,000 or less, excluding code and/or occupancy upgrades.~~
 - e. Vehicle access to the Manufacturing premises utilizing a shared and privately owned or maintained road or driveway shall prompt the Trinity County Planning Department to notify adjacent impacted property owners.

Objections from adjacent impacted property owners may require mitigation measures or require a Conditional Use Permit, as determined by the Director of Trinity County Planning Department.

- M. All Type 6, Type P or Type N applicants that do not meet the requirements outlined in Section 2 – subsection 4 L shall obtain a Conditional Use Permit before starting operations, including infrastructure or building improvements.

5. Required Findings:

The appropriate A-Conditional Use Permit for Cannabis manufacturing shall not be granted by the appropriate authority unless all of the following findings are made based on substantial evidence:

- A. The manufacturing facility will comply with all of the requirements of the State and County for the Cannabis manufacturing. This includes, but is not limited to, product safety, THC levels, edible standards, timelines, packaging and labeling requirements.
- B. The manufacturing, as approved and conditioned will not result in significant unavoidable impacts on the environment.
- C. The manufacturing includes adequate quality control measures to ensure Cannabis manufactured at the site meets industry State standards.
- D. The manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids or substances.
- E. The manufacturing operations plan includes adequate measures that address the federal enforcement priorities for Cannabis activities.

6. Required Conditions:

In addition to any other conditions and mitigation that apply to all permits for Cannabis manufacturing:

- A. The manufacturer shall allow access to the facility and access to records if requested by the County, its officers, or agents, for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations and conditions.
- B. The applicant for the manufacturing facility and the property owner shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial Cannabis activity.
- C. Any person operating a Cannabis manufacturing facility shall obtain a valid and fully executed commercial Cannabis manufacturing license from the State prior to commencing operations, and must maintain such license in good standing in order to continue operations.
- D. The property owner shall be responsible for ensuring that all commercial Cannabis activities at the site operate in good standing with permits and licenses required by the Trinity County Code and California State law. Failure to take

appropriate action to evict or otherwise remove operators who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a **Conditional** Use Permit pursuant to this Chapter.

- E. The manufacturing facilities and activities shall be maintained in accordance with the operating plans approved by the County.
- a. At any time during the license period, a licensee may request to change the manufacturing activities conducted at the licensed premises. All proposed changes require pre-approval ~~before changing operations~~, including infrastructure or building improvements. To request approval for proposed changes, the licensee shall submit a revised operating plan and drawings per Trinity County's application process.
 - b. Any change requests shall be evaluated on a case-by-case basis by Trinity County Planning Department, and upon approval, the licensee may begin conducting the additional manufacturing operation or make the requested change to the premises. The existing license shall be amended to reflect the change in operations, if applicable, but the date of expiration shall not change.
- F. The Cannabis Manufacturing Program Fee is due annually from date of issuance and is set at:
- a. Type 6: \$5,000.00 plus \$1,000 towards the General Plan update.
 - b. Type 7: \$6,000.00 plus \$1,000 towards the General Plan update.
 - c. Type N: \$2,000.00 plus \$500 towards the General Plan update.
 - d. Type P: \$2,000.00 plus \$500 towards the General Plan update
- G. The above Fee amounts are not anticipated to fully cover the cost of administering this Ordinance; however, within twelve months of this Ordinance, the County shall conduct a fee study to determine the total cost of administering this Ordinance.
- a. If, based on the results of the fee study, the fee needs to be increased; the County may increase the Fee by way of resolution for any new or renewal registrations.
 - b. If, based on the results of the fee study, the fee exceeds the cost of administering this Ordinance the County shall decrease the fee by way of resolution and shall also reimburse applicants their proportional share of any overpayment.

7. Denial/Rescission of License:

- A. Applicant's Application shall be denied or the issuance of a license rescinded if the Trinity County becomes aware of any of the following:
- a. The applicant has provided materially false documents or testimony;
 - b. The operation as proposed if permitted, would not comply with all applicable State and local laws, including, but not limited to the Building, Planning, Housing, Fire and Health Codes of the County including the provisions of this Chapter and with all applicable laws including zoning and county ordinances;

c. The applicant engages in site or building improvements before the appropriate use permit has been issued or before the licensees requested changes have been approved.

- B. Applicant shall be given a minimum of seven (7) business days to correct any deficiencies prior to the issuance of a denial or rescission.
- C. Applicant or Licensee shall have the right to appeal any denials or rescissions as prescribed in Chapter 8.90.130 of the Trinity County Code.

Section 3: CEQA

The County finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant Business and Professions Code section 26055(h) until July 1, 2019 because this Ordinance requires discretionary review for the individual licenses that are provided for within.

The County finds that this Chapter is not subject to the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs. Sec. 15378(b)(5) and is an administrative activity that will not result in direct or indirect physical changes in the environment. The establishment of individual Cannabis manufacturing operations will require a Planning Commission-issued Conditional Use Permit requiring the applicant to complete a Project Initial Study-Environmental Checklist and Evaluation of Environmental Impacts.

Section 4:

This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Trinity Journal, a newspaper of general circulation published in the County of Trinity State of California.

Introduced at a regular meeting of the Board of Supervisors held on the 17th day of July, 2018, and passed and enacted this 7th day of August, 2018, by the Board of Supervisors of the County of Trinity by motion, second (/), and the following vote:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____
RECUSE: _____

KEITH GROVES, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:
RICHARD KUHNS, Psy.D
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:

Margaret E. Long, County Counsel

EXHIBIT C

DPH-17-010 – CERT
Cannabis Manufacturing Licensing

California Code of Regulations, Title 17

Division 1

Chapter 13. Manufactured Cannabis Safety

SUBCHAPTER 1. General Provisions and Definitions

Article 1. Definitions

§40100. Definitions.

In addition to the definitions in Business and Professions Code section 26001, the following definitions shall govern the construction of this chapter:

(a) “A-license” means a license issued for commercial cannabis activities involving cannabis and cannabis products that are intended for individuals 21 years of age and older and who do not possess a physician’s recommendation.

(b) “Act” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified at Business and Professions Code section 26000, et seq.

(c) “Adult-use Market” means the products intended for sale at a retailer or microbusiness to individuals 21 years of age and older and who do not possess a physician’s recommendation.

(d) “Adulterated” or “adulteration” has the meaning stated in section 26131 of the Act.

(e) “Allergen” means a major food allergen including any of the following: (1) Milk, eggs, fish (e.g., bass, flounder, or cod), crustacean shellfish (e.g., crab, lobster, or shrimp), tree nuts (e.g., almonds, pecans, or walnuts), wheat, peanuts, and soybeans. (2) A food ingredient that contains protein derived from a food specified in (1), except the following: Any highly refined oil derived from a food specified in (1) and any ingredient derived from such highly refined oil.

(f) “Applicant” means the owner that is applying on behalf of the commercial cannabis business for a license to manufacture cannabis products.

(g) “Batch” or “production batch” means either:

(1) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures; or

(2) An amount of a type of cannabis product produced in one production cycle using the same formulation and standard operating procedures.

(h) “Bureau” means the Bureau of Cannabis Control in the Department of Consumer Affairs.

(i) “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. For purposes of this chapter, “cannabis concentrate” includes, but is not limited to, the separated resinous trichomes of cannabis, tinctures, capsules, suppositories, extracts, ~~and~~ vape cartridges, inhaled products (such as dab, shatter, and wax), and tablets as defined in subsection (rr).

(j) “Cannabis product” as used in this chapter means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical cannabis product containing cannabis or concentrated cannabis and other ingredients.

(k) “Cannabis product quality,” “quality cannabis product,” or “quality” means that the cannabis product consistently meets the established specifications for identity, cannabinoid concentration (as specified in Section 5724 of Title 16 of the California Code of Regulations), composition, and limits on contaminants (as specified in Sections 5718 to 5723, inclusive, of Title 16 of the California Code of Regulations), and has been manufactured, packaged, labeled, and held under conditions to prevent adulteration and misbranding.

(l) “Cannabis waste” means waste that contains cannabis or cannabis products but is not otherwise a hazardous waste as defined in Public Resources Code section 40141.

(m) “CBD” means the compound cannabidiol.

(n) “Commercial-grade, non-residential door lock” means a lock manufactured for commercial use.

(o) “Department” means the State Department of Public Health.

(p) “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(q) “Edible cannabis product” means a cannabis product intended to be used orally, in whole or in part, for human consumption. For purposes of this chapter, “edible cannabis product” includes cannabis products that resemble conventional food or beverages and cannabis products that dissolve or disintegrate in the mouth, but does not include any product otherwise defined as “cannabis concentrate.”

(r) “Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

(s) “Finished product” means a cannabis product in its final form to be sold at a retail premises.

(t) “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.

(u) “Informational panel” means any part of the cannabis product label that is not the primary panel and that contains required labeling information.

(v) “Infusion” means a process by which cannabis, cannabinoids, or cannabis concentrates are directly incorporated into a product formulation to produce a cannabis product.

(w) “Infused pre-roll” means a pre-roll into which cannabis concentrate (other than kief) or other ingredients have been incorporated.

(x) “Ingredient” means any substance that is used in the manufacture of a cannabis product and that is intended to be present in the product’s final form.

(y) “Kief” means the resinous trichomes of cannabis that have been separated from the cannabis plant.

(z) “Labeling” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

(aa) “Limited-access area” means an area in which cannabis or cannabis products are stored or held and is only accessible to a licensee and authorized personnel.

(bb) “M-license” means a license issued for commercial cannabis activity involving medicinal cannabis.

(cc) “Manufacturer licensee” or “licensee” means the holder of a manufacturer license issued pursuant to the Act.

(dd) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(1) The term “manufacture” includes the following processes:

(A) Extraction;

(B) Infusion;

(C) Packaging or repackaging of cannabis products; and

(D) Labeling or relabeling the packages of cannabis products.

(2) The term “manufacture” does not include the following:

(A) The repacking of cannabis products from a bulk shipping container by a distributor or retailer where the product’s original packaging and labeling is not otherwise altered;

(B) The placing of cannabis products into opaque packaging at a retail premises for the purpose of complying with section 26070.1 of the Act;

(C) The collection of the resinous trichomes that are dislodged or sifted from the cannabis plant incident to cultivation activities by a licensed cultivator in accordance with the requirements of the California Department of Food and Agriculture specified in Article 4 of Chapter 1 of Division 8 of Title 3 of the California Code of Regulations; or

(D) The processing of non-manufactured cannabis products, as defined in Section 8000 of Title 3 of the California Code of Regulations, by a licensed cultivator in accordance with the requirements of the California Department of Food and Agriculture specified in Article 4 of Chapter 1 of Division 8 of Title 3 of the California Code of Regulations.

(ee) “Manufacturing” or “manufacturing operation” means all aspects of the extraction process, infusion process, and packaging and labeling processes, including processing, preparing, holding, and storing of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

(ff) “MCLS” means the Manufactured Cannabis Licensing System, which is the online license application system available on the Department’s website (www.cdph.ca.gov).

(gg) “Nonvolatile solvent” means any solvent used in the extraction process that is not a volatile solvent. For purposes of this chapter, “nonvolatile solvents” include carbon dioxide and ethanol.

(hh) “Orally-consumed concentrate” means a cannabis concentrate that is intended to be consumed by mouth and is not otherwise an edible product. “Orally-consumed concentrate” includes tinctures, capsules, and tablets that meet the definition of subsection (rr).

(ii) “Package” or “packaging” means any container or wrapper that may be used for enclosing or containing any cannabis product. The term “package” does not include any shipping container or outer wrapping used solely for the transportation of cannabis products in bulk quantity to another licensee or licensed premises.

(jj) “Personnel” means any worker engaged in the performance or supervision of operations at a manufacturing premises and includes full-time employees, part-time employees, temporary employees, contractors, and volunteers. For purposes of training requirements, “personnel” also includes owner-operators.

(kk) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(ll) “Pre-roll” means any combination of the following rolled in paper: flower, shake, leaf, or kief.

(mm) “Premises” means the designated structure(s) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity (as defined in section 26001(k) of the Act) will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(nn) “Primary panel” means the part of a cannabis product label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

(oo) “Product identity” or “identity of the product” means the generic, common, or usual name of the product by which it is most commonly known.

(pp) "Quarantine" means the storage or identification of a product to prevent distribution or transfer of the product.

(qq) "Serving" means the designated amount of cannabis product established by the manufacturer to constitute a single unit.

(rr) "Tablet" means a solid preparation containing a single serving of THC or other cannabinoid that is intended to be swallowed whole, and that is not formulated to be chewable, dispersible, effervescent, orally disintegrating, used as a suspension, or consumed in a manner other than swallowed whole, and that does not contain any added natural or artificial flavor or sweetener.

(ss) "THC" means the compound tetrahydrocannabinol. For purposes of this chapter, "THC" refers specifically to delta 9-tetrahydrocannabinol.

(tt) "Topical cannabis product" means a cannabis product intended to be applied to the skin rather than ingested or inhaled.

(uu) "Track and trace system" means the program for reporting the movement of cannabis and cannabis products through the distribution chain established by the Department of Food and Agriculture in accordance with section 26067 of the Act.

(vv) "UID" means the unique identifier for use in the track-and-trace system established by the Department of Food and Agriculture in accordance with section 26069 of the Act.

(ww) "Universal symbol" means the symbol developed by the Department pursuant to section 26130(c)(7) of the Act to indicate a product contains cannabinoids.

(xx) "Volatile solvent" means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26001; 26120; and 26130, Business and Professions Code; Section 11018.1, Health and Safety Code.

§40101. Applicability.

(a) Unless otherwise specified, the requirements of this chapter apply to all licensed manufacturers and to the manufacture of cannabis products for both the medicinal-use market and the adult-use market.

(b) The requirements for the production, packaging, and labeling of cannabis products in subchapters 3, 4, and 5 shall apply to licensed microbusinesses conducting manufacturing operations.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26050; and 26106, Business and Professions Code.

§40102. Owners and Financial Interest Holders.

(a) An owner shall mean any of the following:

(1) Any person that has an aggregate ownership interest, other than a security interest, lien, or encumbrance, in a commercial cannabis business of 20 percent or more;

(A) If the owner identified in subsection (a)(1) is an entity, then the chief executive officer and members of the board of directors of the entity shall be considered owners.

(2) The chief executive officer of a commercial cannabis business;

(3) If a non-profit entity, each member of the board of directors;

(4) Any individual that will be participating in the direction, control, or management of the licensed commercial cannabis business. An owner who is an individual participating in the direction, control, or management of the commercial cannabis business includes any of the following:

(A) Each general partner of a commercial cannabis business that is organized as a partnership;

(B) Each non-member manager or managing member of a limited liability company for a commercial cannabis business that is organized as a limited liability company;

(C) Each officer or director of a commercial cannabis business that is organized as a corporation; and

(D) Any individual that assumes responsibility for the licensee.

(5) The trustee(s) and all persons that have control of the trust and/or the commercial cannabis business that is held in trust.

(b) Financial interest holders, for purposes of section 26051.5(d) of the Act, are persons that hold an ownership interest of less than 20 percent in a commercial cannabis business, and are not otherwise specified as owners pursuant to subsection

(a) Financial interest holders shall be disclosed on the application for licensure. A financial interest means an agreement to receive a portion of the profits of a commercial cannabis business, an investment into a commercial cannabis business, a loan provided to a commercial cannabis business, or any other equity interest in a commercial cannabis business.

(c) The following persons are not considered to be owners or financial interest holders:

(1) A bank or financial institution whose interest constitutes a loan;

(2) Persons whose only ownership interest in the commercial cannabis business is through an interest in a diversified mutual fund, blind trust, or similar instrument;

(3) Persons whose only financial interest is a security interest, lien, or encumbrance on the property that will be used by the commercial cannabis business; and

(4) Persons who hold a share of stock that is less than 5 percent of the total shares in a publicly traded company.

Authority: Sections 26012; and 26013, Business and Professions Code.

Reference: Sections 26001; and 26051.5, Business and Professions Code.

§40105. Premises Diagram.

(a) The premises diagram required pursuant to section 26051.5(c) of the Act shall meet the following requirements:

(1) The diagram shall be specific enough to enable ready determination of the bounds of the property and the proposed premises to be licensed;

(2) The diagram shall be to scale;

(3) If the proposed premises consists of only a portion of a property, the diagram shall be labeled to indicate which part of the property is the proposed premises and identifying what the remaining property is used for.

(b) The premises diagram shall include:

(1) All boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, and doorways.

(2) The areas in which all commercial cannabis activities will be conducted.

Commercial cannabis activities that shall be identified on the diagram include the following, as applicable to the business operations: infusion activities, extraction activities, packaging activities, labeling activities, and transportation activities such as loading and unloading of cannabis and cannabis products.

(3) The limited-access areas, areas used for video surveillance monitoring and surveillance system storage devices, and all security camera locations.

(4) Cannabis waste disposal areas.

(c) If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, the diagram shall clearly show any entrances and walls under the exclusive control of the applicant or licensee. The diagram shall also show all proposed common or shared areas of the property, including entryways, lobbies, bathrooms, hallways, and breakrooms.

(d) The diagram shall be used by the Department to determine whether the premises meets the requirements of the Act and this chapter.

Authority: Section 26013, Business and Professions Code.

Reference: Section 26015.5, Business and Professions Code.

Article 2. General Provisions

§40115. License Required.

(a) Every person who manufactures cannabis products shall obtain and maintain a valid manufacturer license from the Department for each separate premises at which manufacturing operations will be conducted.

(b) No person shall manufacture cannabis products without a valid license from the Department.

(c) Licenses shall not be transferrable.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26053, Business and Professions Code.

§40116. Personnel Prohibited from Holding Licenses.

(a) A license authorized by the Act and issued by the Department may not be held by, or issued to, any person holding office in, or employed by, any agency of the State of California or any of its political subdivisions when the duties of such person have to do with the enforcement of the Act or the penal provisions of law of this State prohibiting or regulating the sale, use, possession, transportation, distribution, testing, manufacturing, or cultivation of cannabis or cannabis products.

(b) This section applies to, but is not limited to, any person employed in the State of California Department of Justice as a peace officer, in any district attorney's office, in any city or county attorney's office, in any sheriff's office, or in any local police department.

(c) All persons listed in subsection (a) or (b) may not have any ownership interest, directly or indirectly, in any business to be operated or conducted under a cannabis license.

(d) This section does not apply to any person who holds a license in the capacity of executor, administrator, or guardian.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26010; and 26012, Business and Professions Code.

§40118. Manufacturing License Types.

(a) The following license types are available from the Department:

(1) "Type 7," for extractions using volatile solvents as defined by Section 40100(xx).

A Type 7 licensee may also:

(A) Conduct extractions using nonvolatile solvents or mechanical methods on the licensed premises, provided that the extraction process is noted on the application and the relevant information pursuant to Section 40131 is provided to the Department;

(B) Conduct infusion operations on the licensed premises, provided that infusion operations and product types are noted on the application and the relevant information pursuant to Section 40131 is provided to the Department;

(C) Conduct packaging and labeling of cannabis products on the licensed premises;
and

(D) Register and operate the licensed premises as a shared-use facility in accordance with Article 6 (commencing with Section 40190) of Subchapter 2.

(2) "Type 6," for extractions using mechanical methods or nonvolatile solvents as defined by Section 40100(gg). A Type 6 licensee may also:

(A) Conduct infusion operations on the licensed premises, provided that infusion operations and product types are noted on the application and the relevant information pursuant to Section 40131 is provided to the Department;

(B) Conduct packaging and labeling of cannabis products on the licensed premises;
and

(C) Register and operate the licensed premises as a shared-use facility in accordance with Article 6 (commencing with Section 40190) of Subchapter 2.

(3) "Type N," for manufacturers that produce cannabis products other than extracts or concentrates that are produced through extraction. A Type N licensee may also:

(A) Package and label cannabis products on the licensed premises; and

(B) Register and operate the licensed premises as a shared-use facility in accordance with Article 6 (commencing with Section 40190) of Subchapter 2.

(4) "Type P," for manufacturers that only package or repackage cannabis products or label or relabel cannabis product containers or wrappers.

(5) “Type S,” for manufacturers that conduct commercial cannabis manufacturing activities in accordance with Article 6 (commencing with Section 40190) of Subchapter 2, at a registered shared-use facility.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26012; 26050; and 26130, Business and Professions Code.

§40120. Additional Activities

In addition to the activities specified in Section 40118, a licensee may also roll and package pre-rolls and package dried cannabis.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26012; and 26130, Business and Professions Code.

SUBCHAPTER 2 – MANUFACTURING LICENSES

Article 1. Applications for Licensure

§40126. Temporary Licenses.

(a) To request a temporary license, an applicant shall submit to the Department the following:

(1) Form CDPH 9041 (11/17), which is hereby incorporated by reference.

(2) A copy of a local license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant to conduct commercial cannabis business at the location requested for the temporary license. Upon receipt of the application, the Department shall contact the applicable local jurisdiction to confirm the validity of the authorization. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.

(b) A temporary license shall be valid for 120 days from the effective date. No temporary license shall be issued on or after January 1, 2019.

(c) A temporary license may be extended by the Department for additional 90-day periods if the holder of a temporary license submits a complete application for annual licensure to the Department pursuant to Section 40128 prior to the initial expiration date of the temporary license. Any temporary license issued or extended that has an expiration date after December 31, 2018, will be valid until it expires, but shall not be extended beyond the expiration date.

(d) A temporary license is a conditional license and authorizes the holder thereof to engage in commercial cannabis activity as would be permitted under the privileges of the license for which the applicant may submit an application to the licensing authority.

(e) Refusal by the Department to issue or extend a temporary license shall not entitle the applicant to a hearing or appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of the Business and Professions Code shall not apply to temporary licenses.

(f) A temporary license does not obligate the Department to issue an annual license to the temporary license holder, nor does the temporary license create a vested right in the holder to either an extension of the temporary license or to the granting of a subsequent annual license.

Authority: Sections 26013; and 26130, Business and Professions Code.

Reference: Section 26050.1, Business and Professions Code.

§40128. Annual License Application Requirements.

(a) To apply for a manufacturer license from the Department, the applicant shall submit the following on behalf of the commercial cannabis business:

(1) A completed application form as prescribed by the Department, or through MCLS, which includes all of the following information:

(A) Business information specified in Section 40129;

(B) Owner information as specified in Section 40130; and

(C) Manufacturing premises and operations information as specified in Section 40131;

(2) For new applications, the nonrefundable application fee as specified in Section 40150(a); for renewal applications, the nonrefundable annual license fee as specified in Section 40150(b);

(3) Evidence of compliance with or exemption from the California Environmental Quality Act (CEQA) as specified in Section 40132; and

(4) The limited waiver of sovereign immunity as specified in Section 40133, if applicable.

(b) The application shall be signed by the applicant under penalty of perjury that the information provided in and submitted with the application is complete, true, and accurate, and shall include the following attestations:

(1) The applicant is authorized to act on behalf of the commercial cannabis business;

(2) The applicant entity, when it has 20 or more employees, has entered, or will enter as soon as reasonably practicable, into a labor peace agreement and will abide by the terms of the agreement as required by section 26051.5 (a)(5)(A) of the Act. The applicant shall provide the Department a copy of the page of the labor peace agreement that contains the signatures of the union representative and the applicant.

(3) The commercial cannabis business is operating in compliance with all local ordinances; and

(4) The proposed premises is not within a 600-foot radius of the perimeter of a school providing instruction in kindergarten or any grades 1 through 12, or a day care center, or youth center, or that the premises complies with the local ordinance specifying a different radius, as specified in section 26054(b) of the Act.

(c) The Department may request additional information and documents from the applicant as necessary to determine whether the applicant or the commercial cannabis business meets the requirements and qualifications for licensure.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26050; 26051.5; and 26054, Business and Professions Code.

§40129. Annual License Application Requirements – Business Information.

(a) The applicant shall submit the following information for the commercial cannabis business:

(1) The legal business name;

(2) The federal tax identification number. If the commercial cannabis business is a sole proprietorship, the applicant shall submit the social security number or individual taxpayer identification number of the sole proprietor;

(3) The registered name(s) under which the business will operate (Fictitious Business Name, Trade Name, “Doing Business As”), if applicable;

(4) The business’s mailing address which will serve as the address of record;

(5) The name, title, phone number and email address of the primary contact person for the commercial cannabis business;

(6) The seller’s permit number issued by the California Department of Tax and Fee Administration or notification issued by the California Department of Tax and Fee Administration that the business is not required to have a seller’s permit. If the applicant has not yet received a seller’s permit, the applicant shall attest that the applicant is currently applying for a seller’s permit;

(7) The business structure of the commercial cannabis business as filed with the California Secretary of State (e.g., limited liability company, partnership, corporation) or operation as a sole proprietor. A commercial cannabis business that is a foreign corporation under the California Corporations Code shall include with its application the certificate of qualification issued by the California Secretary of State;

(8) A list of the owners, as defined in Section 40102;

(9) A list of financial interest holders, as defined in Section 40102, which shall include:

(A) For financial interest holders that are individuals, the first and last name of the individual, and the type and number of the individual's government-issued identification (e.g., driver's license); or

(B) For financial interest holders that are entities, the legal business name and federal taxpayer identification number of the entity;

(10) Proof of having obtained a surety bond in the amount of \$5,000, payable to the State of California as obligee, to ensure payment of the cost incurred for the destruction of cannabis or cannabis products necessitated by a violation of the Act or the regulations adopted thereunder. The bond shall be issued by a corporate surety licensed to transact surety business in the State of California;

(11) The license type applied for and whether the application is for medicinal cannabis product manufacturing, adult-use cannabis product manufacturing, or both;

(12) The business formation documents, which may include, but are not limited to, articles of incorporation, operating agreements, partnership agreements, and fictitious business name statements. If the commercial cannabis business is held in trust, the applicant shall provide a copy of the trust;

(13) All documents filed with the California Secretary of State, which may include, but are not limited to, articles of incorporation, articles of organization, certificates of limited partnership, and statements of partnership authority.

(b) Pursuant to section 26055(e) of the Act, an applicant may voluntarily submit a copy of a license, permit, or other authorization to conduct commercial cannabis manufacturing activities issued by the local jurisdiction. When an applicant submits a local authorization, upon receipt of the application, the Department shall contact the

applicable local jurisdiction to confirm the validity of the authorization. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26050; and 26051.5, Business and Professions Code.

§40130. Annual License Application Requirements – Owners.

(a) Each owner shall submit all of the following information:

(1) Name;

(2) Title or position held;

(3) Social security number or individual taxpayer identification number;

(4) Date of birth;

(5) Mailing address;

(6) Contact phone number and email address;

(7) A copy of Department of Justice form BCIA 8016, provided to the applicant by the Department of Public Health and signed by the live scan operator; and

(8) Disclosure of all of the following, including dates and a description of the circumstances, if applicable:

(A) Any criminal conviction from any jurisdiction. Adjudications by a juvenile court and infractions do not need to be disclosed. Convictions dismissed under Penal Code section 1203.4 or equivalent non-California law must be disclosed;

(B) Any civil proceeding or administrative penalty or license sanction that is substantially related to the qualifications of a manufacturer as identified in Section 40162, including proceedings, penalties or sanctions against you or against a business entity in which you were an owner or officer;

(C) Any fines or penalties for cultivation or production of a controlled substance on public or private land pursuant to Fish and Game Code section 12025 or 12025.1;

(D) Any sanctions by a licensing authority, city, or county for unlicensed commercial cannabis activity within 3 years preceding the date of the application;

(E) Any suspension or revocation of a cannabis license by a licensing authority or local jurisdiction within 3 years preceding the date of the application;

(F) Any administrative orders or civil judgements for violations of labor standards against you or against a business entity in which you were an officer or owner within the three years immediately preceding the date of the application.

(b) The owner shall sign under penalty of perjury that the information provided in and submitted with the application is complete, true, and accurate.

(c) An owner disclosing a criminal conviction or other penalty or sanction pursuant to subsection (a), paragraphs (8)(A) and (B), shall submit any evidence of rehabilitation with the application for consideration by the Department. A statement of rehabilitation shall be written by the owner and contain all the evidence that the owner would like the Department to consider that demonstrates the owner's fitness for licensure. Supporting evidence may be attached to the statement of rehabilitation and may include, but is not limited to, evidence specified in Section 40165, and dated letters of reference from employers, instructors, or counselors that contain valid contact information for the individual providing the reference.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26012; 26013; 26050; 26055; and 26130, Business and Professions Code.

§40131. Annual License Application Requirements – Manufacturing Premises and Operations Information.

The applicant shall submit all of the following information regarding the manufacturing premises and operation:

(a) The physical address of the manufacturing premises;

(b) Whether medicinal-use cannabis products, adult-use cannabis products, or both, are manufactured at the premises;

(c) The type(s) of activity conducted at the premises (extraction, infusion, packaging, or labeling);

(d) The types of products that will be manufactured, packaged, or labeled at the premises, including a product list;

(e) The name, title, email address, and phone number of the on-site individual who manages the operation of the premises;

(f) The name, title, email address, and phone number of an alternate contact person for the premises, if applicable;

(g) The number of employees at the premises;

(h) The gross annual revenue from products manufactured at the premises as specified in Section 40152;

(i) A premises diagram as specified in Section 40105;

(j) The following information:

(1) A description of inventory control procedures sufficient to demonstrate how the applicant will comply with the requirements of Section 40282, or a copy of the standard operating procedure addressing inventory control;

(2) A description of quality control procedures sufficient to demonstrate how the applicant will comply with all of the applicable requirements specified in Sections 40232-40268 or a copy of the standard operating procedure addressing quality control;

(3) A description of the transportation process describing how cannabis or cannabis products will be transported into and out of the premises, or a copy of the standard operating procedure addressing transportation;

(4) A description of security procedures sufficient to demonstrate how the applicant will comply with the requirements of Section 40200, or a copy of the standard operating procedure addressing security procedures;

(5) A description of the cannabis waste management procedures sufficient to demonstrate how the applicant will comply with the requirements of Section 40290, or a copy of the standard operating procedure addressing cannabis waste management.

(k) A written statement signed by the owner of the property, or the owner's agent, identifying the physical location of the property and acknowledging and consenting to the manufacture of cannabis products on the property. The name, address and contact phone number for the property owner or owner's agent shall be included; and

(l) A copy of the signed closed-loop system certification and a document evidencing approval of the extraction operation by the local fire code official required pursuant to Sections 40223 or 40225, if applicable.

(m) Any manufacturer submitting operating procedures and protocols to the Department pursuant to the Act and this chapter may claim the information as a trade secret or confidential by clearly identifying such information as “confidential” on the document at the time of submission. Any claim of confidentiality by a manufacturer must be based on the manufacturer’s good faith belief that the information marked as confidential constitutes a trade secret as defined in Civil Code section 3426.1(d), or is otherwise exempt from public disclosure under the California Public Records Act in Government Code section 6250 et seq.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26050; 26050.1; 26055; and 26130, Business and Professions Code.

§40132. Annual License Application Requirements – Compliance with CEQA.

(a) An applicant for a new license shall provide evidence of exemption from or compliance with the California Environmental Quality Act, Division 13 (commencing with section 21000) of the Public Resources Code (CEQA).

(b) The evidence provided pursuant to subsection (a) shall be one of the following:

(1) If the premises is located in a local jurisdiction that has adopted an ordinance, rule, or regulation pursuant to Business and Professions Code section 26055(h), a copy of the local license, permit, or other authorization shall be sufficient to demonstrate compliance.

(2) If the applicant does not provide a copy of the local license, permit, or other authorization pursuant to subsection (b)(1), or if the premises is located in a local jurisdiction that has not adopted an ordinance, rule, or regulation pursuant to Business and Professions Code section 26055(h), a copy of the Notice of Exemption or Notice of Determination and a copy of the CEQA document from the local jurisdiction, or a reference to where it can be found electronically to demonstrate compliance.

(3) Any other permit or local authorization issued by the local jurisdiction in compliance with CEQA may be submitted to demonstrate compliance.

(c) If an applicant does not have the evidence specified in subsection (b), or if the local jurisdiction did not prepare a CEQA document, the applicant shall be responsible for the preparation of an environmental document in compliance with CEQA that can be approved or certified by the Department, if applicable.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26055, Business and Professions Code.

§40133. Limited Waiver of Sovereign Immunity.

(a) Any applicant or licensee that may fall within the scope of sovereign immunity that may be asserted by a federally recognized tribe or other sovereign entity must waive any sovereign immunity defense that the applicant or licensee may have, may be asserted on its behalf, or may otherwise be asserted in any state administrative or judicial enforcement actions against the applicant or licensee, regardless of the form of relief sought, whether monetary or otherwise, under the state laws and regulations governing commercial cannabis activity. The applicant or licensee must submit a written waiver of sovereign immunity to the Department with any license application or renewal, which is valid for the period of the license. The written waiver shall include that the applicant or licensee has the lawful authority to enter into the waiver required by this section, the applicant or licensee hereby waives sovereign immunity, and the applicant or licensee agrees to do all of the following:

(1) Provide documentation to the Department that establishes that the applicant or licensee has the lawful authority to enter into the waiver required by this section;

(2) Conduct all commercial cannabis activity in full compliance with the state laws and regulations governing commercial cannabis activity, including submission to all enforcement provisions thereof;

(3) Allow access as required by state statute or regulation by persons or entities charged with duties under the state laws and regulations governing commercial cannabis activity to any premises or property at which the applicant conducts any

commercial cannabis activity, including premises or property where records of commercial cannabis activity are maintained by or for the applicant or licensee;

(4) Provide any and all records, reports, and other documents as may be required under the state laws and regulations governing commercial cannabis activity;

(5) Conduct commercial cannabis activity with other state commercial cannabis licensees only, unless otherwise specified by state law;

(6) Meet all of the requirements for licensure under the state laws and regulations governing the conduct of commercial cannabis activity, and provide truthful and accurate documentation and other information of the applicant's qualifications and suitability for licensure as may be requested;

(7) Submit to the personal and subject matter jurisdiction of the California courts to address any matter related to the waiver or the commercial cannabis application, license, or activity, and that all such matters and proceedings shall be governed, construed, and enforced in accordance with California substantive and procedural law, including but not limited to the Medicinal and Adult-Use Cannabis Regulation and Safety Act and the Administrative Procedure Act.

(b) The Department shall not approve an application for a state license if approval of the license would violate the provisions of any local ordinance or regulation adopted in accordance with section 26200 of the Act that is issued by the county or, if within a city, the city, within which the licensed premises is to be located.

(c) Any applicant or licensee must immediately notify the Department of any changes that may materially affect the applicant and licensee's compliance with Subsection (a).

(d) Any failure by an applicant or licensee to comply with the requirements of subsections (a) or (c) shall be a basis for denial of an application or renewal or discipline of a licensee.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26011.5, Business and Professions Code.

§40135. Incomplete and Abandoned Applications.

(a) Incomplete applications will not be processed. Applications will only be considered complete if all of the information requested under Sections 40128 to 40131 is included. The Department shall issue a written notice to the applicant, by mail or through MCLS, informing them of any information missing from the application.

(b) If the applicant fails to submit the required information within 180 days from the date of notice, the application shall be deemed abandoned. Application fees for abandoned applications shall not be refunded.

(c) An applicant may reapply at any time following an abandoned application; however, a new application and application fee are required.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26050, Business and Professions Code.

§40137. Application Withdrawal.

(a) An applicant may withdraw an application for annual licensure at any time prior to the issuance or denial of the license. Requests to withdraw an application shall be submitted in writing to the Department or through MCLS.

(b) An applicant may reapply for annual licensure at any time subsequent to the withdrawal of an application; however, a new application and application fee are required.

(c) Withdrawal of an application shall not deprive the Department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(d) The application fee for a new application and the annual license fee for a renewal application shall not be refunded when an application is withdrawn.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26012; and 26050, Business and Professions Code.

Article 3. Fees

§40150. Application and License Fees.

(a) Manufacturer application fees for new applications shall be as follows:

(1) For a Type 7, Type 6, Type N, or Type P license application, the nonrefundable application fee is \$1,000 for each new application submitted;

(2) For a Type S license application, the nonrefundable application fee is \$500 for each new application submitted.

(b) The annual license fee shall be as follows:

(1) For a licensed premises with gross annual revenue of up to \$100,000 (Tier I), the fee shall be \$2,000;

(2) For a licensed premises with gross annual revenue of \$100,001 to \$500,000 (Tier II), the fee shall be \$7,500;

(3) For a licensed premises with gross annual revenue of \$500,001 to \$1,500,000 (Tier III), the fee shall be \$15,000;

(4) For a licensed premises with gross annual revenue of \$1,500,001 to \$3,000,000 (Tier IV), the fee shall be \$25,000;

(5) For a licensed premises with gross annual revenue of \$3,000,001 to \$5,000,000 (Tier V), the fee shall be \$35,000;

(6) For a licensed premises with gross annual revenue of \$5,000,001 to \$10,000,000 (Tier VI), the fee shall be \$50,000;

(7) For a licensed premises with gross annual revenue of over \$10,000,000 (Tier VII), the fee shall be \$75,000.

(c) All fees are nonrefundable.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26012; and 26180, Business and Professions Code.

§40152. Gross Annual Revenue Calculation.

(a) The applicant shall calculate the gross annual revenue for the licensed premises based on the annual gross sales of cannabis products and, if applicable, the annual revenue received from manufacturing, packaging, labeling or otherwise handling

cannabis or cannabis products for other licensees, in the twelve months preceding the date of application.

(b) For a new license applicant, the gross annual revenue shall be based on the gross sales and revenue expected during the first 12 months following licensure.

(c) For a manufacturer licensee that is also licensed as a distributor or retailer, and that sells or transfers cannabis products manufactured on the licensed premises in a non-arm's length transaction, the annual gross sales or revenue for such transactions shall be based on the fair market value of the product if it was sold in an arm's length transaction at wholesale.

(d) For purposes of this section, an "arm's length transaction" means a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26012; and 26180, Business and Professions Code.

Article 4. Approval or Denial of Application for Licensure.

§40155. New License Approval.

(a) The Department shall notify the applicant upon approval of a new license application by email or through MCLS.

(b) The applicant shall pay the applicable license fee specified in Section 40150(b) within 30 calendar days of notification. The license fee for the first year of licensure shall be based on the estimated gross annual revenue as calculated pursuant to Section 40152 and submitted in the license application.

(c) No license shall be issued before the license fee is paid to the Department in full.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26012; and 26130, Business and Professions Code.

§40156. Priority License Issuance.

(a) Priority in issuance of licenses shall be given to applicants that can demonstrate that the commercial cannabis business was in operation under the Compassionate Use Act of 1996, Health and Safety Code sections 11362.5 et seq., as of September 1, 2016.

(b) Eligibility for priority in application processing shall be demonstrated by any of the following, dated prior to September 1, 2016:

(1) Local license or permit or other written authorization;

(2) Collective or Cooperative Membership Agreement;

(3) Tax or business forms submitted to the Board of Equalization or Franchise Tax Board;

(4) Incorporation documents; or

(5) Any other business record that demonstrates the operation of the business prior to September 1, 2016.

(c) Any applicant identified by the local jurisdiction pursuant to section 26054.2(b) of the Act shall be considered eligible for priority issuance.

(d) The Department may request additional documentation to verify the applicant's date of commencement of operations.

(e) This section shall expire on December 31, 2019, unless otherwise provided by law.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26012; 26054.2; and 26130, Business and Professions Code.

§40159. Denial of License.

(a) The Department may deny an application for a new or renewal license for any reason specified in section 26057(b) of the Act. Further, the Department may deny a new or renewal license application for any of the following additional reasons:

(1) The applicant, an owner, or licensee made a material misrepresentation in the application for the license;

(2) An owner of the commercial cannabis business has been convicted of a crime or has committed a violation of law substantially related to the qualifications, functions, or duties of a manufacturer as identified in Section 40162;

(3) The applicant, an owner, or licensee has been denied a license to engage in commercial cannabis activity by a state licensing authority;

(4) The applicant, an owner, or licensee has denied the Department access to the premises; or

(5) The licensee has engaged in conduct that is grounds for disciplinary action specified in section 26030 of the Act.

(b) The Department shall deny an application for a new or renewal license if the proposed manufacturing operation or premises would violate the applicable local ordinance.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(d) Prior to denial of a license based upon paragraph (2) of subsection (a) of this section, the Department shall consider any evidence of rehabilitation as provided in Section 40165.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26030; and 26057, Business and Professions Code.

§40162. Substantially Related Acts.

For the purpose of denial of a license, a conviction or violation from any jurisdiction that is substantially related to the qualifications, functions, and duties of the business for which the application is made include:

- (a) A violent felony conviction, as specified in section 667.5(c) of the Penal Code;
- (b) A serious felony conviction, as specified in section 1192.7(c) of the Penal Code;
- (c) A felony conviction involving fraud, deceit, or embezzlement;
- (d) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any controlled substance to a minor, or offering, furnishing, or selling any controlled substance to a minor;
- (e) A felony conviction for drug trafficking with enhancements pursuant to Health and Safety Code sections 11370.4 or 11379.8;
- (f) A violation of section 110620, 110625, 110630, 110760, 110765, 110770, 110775, 111295, 111300, 111305, 111440, 111445, 111450, or 111455 of the Health and Safety Code (Sherman Food, Drug, and Cosmetic Law) that resulted in suspension or revocation of a license, administrative penalty, civil proceeding or criminal conviction;
- (g) A violation of Chapter 4 (sections 111950 through 112130) of Part 6 of the Health and Safety Code regarding wholesale food processors and the California Food Sanitation Act that resulted in suspension or revocation of a license, administrative penalty, civil proceeding or criminal conviction;
- (h) A conviction under section 382 or 383 of the Penal Code; and
- (i) A violation of law identified in subsections (f) or (g) committed by a business entity in which an owner was an officer or had an ownership interest is considered a violation that is substantially related to the owner's qualifications for licensure.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26057, Business and Professions Code.

§40165. Criteria for Evidence of Rehabilitation.

(a) When evaluating whether a license should be issued or denied when an owner has been convicted of a criminal offense or committed a violation of law that is substantially related to the qualifications, functions, or duties of the business for which the application is made, the Department shall consider the following criteria in its evaluation of evidence of rehabilitation:

(1) The nature and severity of the act or offense, including the actual or potential harm to the public;

(2) The owner's criminal record as a whole;

(3) Evidence of any act committed subsequent to the act or offense under consideration that could be considered grounds for denial, suspension, or revocation of a manufacturing license;

(4) The time elapsed since commission of the act or offense listed in Section 40162, or in section 26057(b)(4) of the Act;

(5) The extent to which the owner has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the owner or licensee;

(6) If applicable, evidence of dismissal under Penal Code section 1203.4, 1203.4a, 1203.41, or a similar law in another state;

(7) If applicable, a certificate of rehabilitation obtained under Penal Code section 4852.01 or a similar law in another state; and

(8) Other evidence of rehabilitation submitted by the owner.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; 26055; and 26057, Business and Professions Code.

§40167. Appeal of License Denial.

(a) Upon denial of an application for a license, the Department shall notify the applicant in writing of the reasons for the denial and the right to a hearing to contest the denial.

(b) The applicant may request a hearing by filing a written request with the Department within 30 calendar days of service of the notice of denial. The written

request for hearing must be postmarked within the 30-day period. If a request is not filed within the 30-day period, the applicant's right to a hearing is waived.

(c) Upon receipt of the request for hearing, the Department shall commence proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26058, Business and Professions Code.

Article 5. General Licensee Responsibilities

§40175. License Constraints.

(a) A manufacturer licensee shall not manufacture, prepare, package or label any products other than cannabis products at the licensed premises. For purposes of this section, the term “cannabis products” also includes packaged cannabis, pre-rolls, and products that do not contain cannabis, but are otherwise identical to the cannabis-containing product, and are intended for use as samples.

(b) No licensee shall employ or retain an individual under 21 years of age.

(c) A manufacturer licensee shall only use cannabinoid concentrates and extracts that are manufactured or processed from cannabis obtained from a licensed cannabis cultivator.

(d) A manufacturer licensee shall not manufacture, prepare, package, or label cannabis products in a location that is operating as a retail food establishment or as a processed food registrant.

(e) A manufacturer licensee shall not manufacture, prepare, package, or label cannabis products in a location that is licensed by the Department of Alcoholic Beverage Control pursuant to Division 9 (commencing with section 23000) of the Business and Professions Code.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26050; 26053; and 26140, Business and Professions Code.

§40177. Change in Licensed Operations.

(a) At any time during the license period, a licensee may request to change the manufacturing activities conducted at the licensed premises. The following changes require pre-approval from the Department:

(1) The addition of any extraction method subject to the requirements of Section 40225;

(2) The addition of any other extraction method that necessitates a substantial or material alteration of the premises;

(3) The addition of infusion operations if no infusion activity is listed in the current license application on file with the Department;

(4) A substantial or material alteration of the licensed premises from the current premises diagram on file with the Department.

(b) For purposes of this section, a “substantial or material alteration” includes: the removal, creation, or relocation of an entryway, doorway, wall, or interior partition; a change in the type of activity conducted in, or the use of, an area identified in the premises diagram; or remodeling of the premises or portion of the premises in which manufacturing activities are conducted.

(c) To request approval for a change listed in subsection (a), the licensee shall submit the following:

(1) Any changes to the information and documents required under Section 40131 by email or through MCLS; and

(2) A non-refundable \$700 change request processing fee for review of all documents.

(d) The request shall be evaluated on a case-by-case basis by the Department, and upon approval, the licensee may begin conducting the additional manufacturing operation or make the requested change to the premises. The existing license shall be amended to reflect the change in operations, if applicable, but the date of expiration shall not change.

(e) Licensees that choose to cease the operation of any activity identified in the current license application on file with the Department, shall notify the Department within 10 days of cessation of the activity. License fees shall not be pro-rated or refunded upon cessation of any activity.

(f) A licensee shall notify the Department through MCLS of any changes to the product list on file with the Department and provide a new list within 10 business days of making any change.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26050; and 26055, Business and Professions Code.

§40178. Add or Remove Owner(s) and Financial Interest Holders.

(a) The licensee shall notify the Department of the addition or removal of an owner through MCLS within 10 calendar days of the change.

(b) Any new owner shall submit the information required under Section 40130 to the Department through MCLS or on a form prescribed by the Department. The Department shall review the qualifications of the new owner in accordance with the Act and these regulations to determine whether the change would constitute grounds for denial of the license. The Department may approve the addition of the owner, deny the addition of the owner, or condition the license as appropriate, to be determined on a case-by-case basis.

(c) An owner shall notify the Department through MCLS of any change in their owner information submitted pursuant to Section 40130 within 10 calendar days of the change.

(d) A licensee shall notify the Department through MCLS of any change in the list of financial interest holders, as specified in to Section 40129(a)(9) within 10 calendar days of the change.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26050; and 26057, Business and Professions Code.

§40180. License Renewal.

(a) To apply for a license renewal, the licensee shall submit any changes to their current license application information (as required by Section 40128) on a form prescribed by the Department or through MCLS; submit a document demonstrating the gross annual revenue calculated pursuant to Section 40152, such as a copy of the licensee's state tax return filed with the California Department of Tax and Fee Administration; sign the renewal application under penalty of perjury; and submit the annual license fee as specified in Section 40150(b).

(b) To timely renew a license, a completed license renewal form and annual license fee pursuant to Section 40150 shall be received by the Department from the licensee no earlier than 60 calendar days before the expiration of the license and no later than 5:00 p.m. Pacific Time on the last business day before the expiration of the license if the renewal form is submitted to the Department at its office(s), or no later than 11:59 p.m.

on the last business day before the expiration of the license if the renewal form is submitted through MCLS. Failure to receive a notice for license renewal does not relieve a licensee of the obligation to renew all licenses as required.

(c) In the event the renewal application is not submitted by the deadline established in subsection (b), the licensee shall not conduct commercial cannabis activity until the license is renewed.

(d) A licensee may submit an application for license renewal up to 30 calendar days after the license expires. A late renewal application shall be subject to a late fee of \$500. A manufacturer that does not submit a complete license renewal application, including the late fee, to the Department within 30 calendar days after the expiration of the license shall forfeit their eligibility to apply for a license renewal and, instead, shall be required to submit a new license application.

(e) Any changes to owner and financial interest owner information shall be made in accordance with Section 40178.

(f) The Department shall notify the applicant upon approval of the renewal application through email or MCLS. The Department shall notify the applicant of the denial of an application in accordance with Section 40167.

Authority: Sections 26102; 26013; and 26130, Business and Professions Code.

Reference: Sections 26050; 26051.5; and 26180, Business and Professions Code.

§40182. Disaster Relief.

(a) If a licensee is unable to comply with any licensing requirement due to a disaster, the licensee may notify the Department of this inability to comply and request relief from the specific licensing requirement.

(b) The Department may exercise its discretion to provide temporary relief from specific regulatory requirements in this chapter and from other licensing requirements when allowed by law.

(c) Temporary relief from specific licensing requirements shall be issued for a reasonable amount of time in order to allow the licensee to recover from the disaster.

(d) The Department may require that certain conditions be followed in order for a licensee to receive temporary relief from specific licensing requirements.

(e) A licensee shall not be subject to an enforcement action for a violation of a licensing requirement in which the licensee has received temporary relief.

(f) For purposes of this section, “disaster” means condition of extreme peril to the safety of persons and property within the state or a county, city and county, or city caused by such conditions such as air pollution, fire, flood, storm, tidal wave, epidemic, riot, drought, terrorism, sudden and severe energy shortage, plant or animal infestation or disease, Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or similar public calamity, other than conditions resulting from a labor controversy, for which the Governor has proclaimed a state of emergency in accordance with Government Code sections 8558 and 8625, or for which a local governing body has proclaimed a local emergency in accordance with Government Code sections 8558 and 8630.

(g) Notwithstanding subsection (a) of this section, if a licensee needs to move cannabis or cannabis products stored on the premises to another location immediately to prevent loss, theft, or degradation of the cannabis or cannabis products from the disaster, the licensee may move the cannabis or cannabis products without obtaining prior approval from the Department if the following conditions are met:

(1) The cannabis or cannabis products are moved to a secure location where access to the cannabis or cannabis products can be restricted to the licensees, its employees, and its contractors;

(2) The licensee notifies the Department in writing that the cannabis or cannabis products have been moved and that the licensee is requesting relief from complying with the specific licensing requirements pursuant to subsection (a) of this section within 24 hours of moving the cannabis or cannabis products;

(3) The licensee agrees to grant the Department access to the location where the cannabis or cannabis products have been moved;

(4) The licensee submits in writing to the Department within 10 days of moving the cannabis or cannabis products, a request for temporary relief that clearly indicates what

statutory and regulatory sections relief is requested from, the time period for which the relief is requested, and the reasons relief is needed for the specified amount of time.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26012, Business and Professions Code.

§40184. Notification of Criminal Acts, Civil Judgments, and Revocation of a Local License, Permit, or Other Authorization after Licensure.

(a) A licensee shall notify the Department in writing of a criminal conviction of any owner, either by mail or electronic mail, within 48 hours of the conviction. The written notification to the Department shall include the date of conviction, the court case number, the name of the court in which the owner was convicted, and the specific offense(s) for which the owner was convicted.

(b) A licensee shall notify the Department in writing of a civil penalty or judgment rendered against the licensee or any owner in their individual capacity, either by mail or electronic mail, within 48 hours of delivery of the verdict or entry of judgment, whichever is sooner. The written notification to the Department shall include the date of verdict or entry of judgment, the court case number, the name of the court in which the matter was adjudicated, and a description of the civil penalty or judgement rendered against the licensee or owner.

(c) A licensee shall notify the Department in writing of the revocation of a local license, permit, or other authorization, either by mail or electronic mail, within 48 hours of receiving notice of the revocation. The written notification shall include the name of the local agency involved, a written explanation of the proceeding or enforcement action, and the specific violation(s) that led to revocation.

(d) A licensee shall notify the Department in writing of an administrative order for violations of labor standards against the licensee or any owner in their individual capacity, either by mail or electronic mail, within 48 hours of delivery of the order. The written notification shall include the date of the order, the name of the agency issuing the order, and a description of the administrative penalty or judgment against the licensee.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26031, Business and Professions Code.

Article 6. Shared-Use Facilities.

§40190. Definitions.

For purposes of this Article, the following definitions shall apply:

(a) “Common-use area” means any area of the manufacturer’s registered shared-use facility, including equipment that is available for use by more than one licensee, provided that the use of a common-use area is limited to one licensee at a time.

(b) “Designated area” means the area of the manufacturer’s registered shared-use facility that is designated by the primary licensee for the sole and exclusive use of a Type S licensee, including storage of the Type S licensee’s cannabis, cannabis concentrates, and cannabis products.

(c) “Primary licensee” means the Type 7, Type 6, or Type N licensee that has registered and been approved to operate its licensed premises as a shared-use facility.

(d) “Shared-use facility” means a manufacturing premises operated by a Type 7, Type 6, or Type N licensee in which Type S licensees are authorized to conduct manufacturing operations.

(e) “Use agreement” means a written agreement between a primary licensee and a Type S applicant or licensee that specifies the designated area of the Type S licensee, the days and hours in which the Type S licensee is assigned to use the common-use area, any allocation of responsibility for compliance pursuant to Section 40196, and an acknowledgement that the Type S licensee has sole and exclusive use of the common-use area during the Type S licensee’s assigned time period.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26001; 26050; 26051.5; and 26130, Business and Professions Code.

§40191. Type S License.

(a) Applications for a Type S license shall:

(1) Be submitted in accordance with Section 40128;

(2) Include the license number and address of the registered shared-use facility at which the applicant will conduct manufacturing operations;

(3) Include a copy of the use agreement signed by both the Type S applicant and the primary licensee; and

(4) On the premises diagram submitted pursuant to Section 40131(i), indicate the designated area to be used by the Type S applicant and detail where the applicant will store its cannabis, cannabis concentrates, and cannabis products.

(b) A Type S license shall only be available to applicants with a gross annual revenue of less than \$1 million dollars as calculated pursuant to Section 40152.

(c) A Type S licensee may conduct the following operational activities:

(1) Infusions, as defined in Section 40100(v);

(2) Packaging and labeling of cannabis products; and

(3) Extractions with butter or food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the Type S licensee's infused product, and shall not be sold to any other licensee.

Authority: Sections 26012; 26013; and; 26130, Business and Professions Code.

Reference: Sections 26050; 26051.5; 26130; and 26180, Business and Professions Code.

§40192. Registration to Operate a Shared-Use Facility.

(a) No licensee shall operate as a shared-use facility without prior approval by the Department.

(b) To register as a shared-use facility, a Type 7, Type 6, or Type N licensee shall submit the following to the Department through MCLS:

(1) A copy of the valid license, permit, or other authorization issued by the local jurisdiction that enables the licensee to operate as a shared-use facility. Upon receipt of the registration, the Department shall contact the applicable local jurisdiction to confirm the validity of the authorization. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.

(2) A registration form prescribed by the Department, which includes the following information:

(A) The proposed occupancy schedule that specifies the days and hours the common-use area will be available for use by Type S licensees and when the common-use area will be used by the primary licensee. The occupancy schedule shall allow for adequate maintenance, cleaning, and sanitizing between uses by individual licensees.

(B) A diagram indicating:

(i) Each designated area for Type S licensee(s).

(ii) The common-use area, including identification of any shared equipment.

(c) The Department shall notify the Type 7, Type 6, or Type N licensee upon approval of the registration to operate as a shared-use facility. Notification shall be made through MCLS.

(d) At least one business day prior to a Type S licensee commencing manufacturing operations at a registered shared-use facility, the primary licensee shall provide written notification to the Department. The notification to the Department shall include the Type S licensee's business name, contact person, contact phone number, and license number. The primary licensee shall also provide an updated occupancy schedule that includes the Type S licensee and an updated diagram that specifies the Type S licensee's designated area. Notification shall be provided by email or through MCLS.

(e) A primary licensee that wishes to discontinue operation as a shared-use facility may cancel its registration by providing written notice to the Department and each Type S licensee authorized to use the shared-use facility at least 30 calendar days prior to the effective date of the cancellation.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26051.5; 26055; and 26130, Business and Professions Code.

§40194. Shared-Use Facility Conditions for Operation.

(a) A primary licensee shall operate the shared-use facility in accordance with the conditions of operation specified in this section.

(b) Each Type S licensee shall be assigned a "designated area" that, at minimum:

(1) Is for exclusive use by the Type S licensee;

(2) Provides an area for storage that is secure, fixed in place, locked with a commercial-grade lock, and accessible only to the Type S licensee for storage of that Type S licensee's cannabis, cannabis concentrates, and cannabis products.

(c) Any part of the premises used for manufacturing activities that is a common-use area shall be occupied by only one licensee at a time by restricting the time period that each licensee may use the common-use area. During the assigned time period, one licensee shall have sole and exclusive occupancy of the common-use area.

(d) The use of the shared-use facility shall be restricted to the primary licensee and the Type S licensees authorized by the Department to use the shared-use facility.

(e) Any cannabis product or other materials remaining after a Type S licensee ceases operation and discontinues use of its designated area shall be considered cannabis waste and disposed of by the primary licensee consistent with the requirements of the Act and regulations.

(f) The shared-use facility shall meet all applicable requirements of the Act and regulations.

(g) The occupancy schedule shall be prominently posted near the entrance to the shared-use facility.

(h) The primary licensee may conduct manufacturing activities as permitted under its Type 7, Type 6, or Type N license and may use the common-use area during its scheduled time period.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26130, Business and Professions Code.

§40196. Shared-Use Facility Compliance Requirements.

(a) As part of the use agreement, the primary licensee and Type S licensee(s) may allocate responsibility for providing and maintaining commonly used equipment and services, including, but not limited to security systems, fire monitoring and protection services, and waste disposal service. However, such agreement is not binding on the Department and the Department may take enforcement action against either the

primary licensee or Type S licensee(s), regardless of the allocation of responsibility in the use agreement.

(b) A primary licensee or a Type S licensee is liable for any violation found at the shared-use facility during that licensee's scheduled occupancy or within that licensee's designated area. However, a violation of any provision of the Act or regulations may be deemed a violation for which each Type S licensee and the primary licensee are responsible. In the event of a recall or embargo of a cannabis product produced at a shared-use facility, the Department, in its sole discretion, may include any or all cannabis products produced at the shared-use facility.

(c) The occupancy schedule and designated area for a Type S licensee shall not be altered without prior notification to the Department. Prior to making any changes to the occupancy schedule or the designated area, written notification shall be submitted to the Department that includes the intended changes. Notification shall be submitted by email or through MCLS.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; 26055; and 26130, Business and Professions Code.

SUBCHAPTER 3. REQUIREMENTS OF OPERATION

Article 1. Safety and Security

§40200. Security Plan.

Every licensee shall develop and implement a written security plan. At a minimum, the security plan shall include a description of the security measures to:

(a) Prevent access to the manufacturing premises by unauthorized persons and protect the physical safety of employees. This includes, but is not limited to:

(1) Establishing physical barriers to secure perimeter access and all points of entry into a manufacturing premises (such as locking primary entrances with commercial-grade, non-residential door locks, providing fencing around the grounds and driveway, and securing any secondary entrances including windows, roofs, or ventilation systems);

(2) Installing a security alarm system to notify and record incident(s) where physical barriers have been breached;

(3) Establishing an identification and sign-in/sign-out procedure for authorized personnel, suppliers, and visitors;

(4) Maintaining the premises such that visibility and security monitoring of the premises is possible; and

(5) Establishing procedures for the investigation of suspicious activities.

(b) Prevent against theft or loss of cannabis and cannabis products. This includes but is not limited to:

(1) Establishing an inventory system to track cannabis and cannabis products and the personnel responsible for processing it throughout the manufacturing process;

(2) Limiting access of personnel within the premises to those areas necessary to complete job duties, and to those time-frames specifically scheduled for completion of job duties, including access by outside vendors, suppliers, contractors or other individuals conducting business with the licensee that requires access to the premises;

(3) Supervising tasks or processes with high potential for diversion, including the loading and unloading of cannabis transportation vehicles; and

(4) Providing areas in which personnel may store and access personal items that are separate from the manufacturing areas.

(c) Secure and back up electronic records in a manner that prevents unauthorized access and that ensures the integrity of the records is maintained.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26051.5, Business and Professions Code.

§40205. Video Surveillance.

(a) At minimum, a licensed premises shall have a digital video surveillance system with a minimum camera resolution of 1280 × 720 pixels. The video surveillance system shall be able to effectively and clearly record images of the area under surveillance.

(b) To the extent reasonably possible, all video surveillance cameras shall be installed in a manner that prevents intentional obstruction, tampering with, or disabling.

(c) Areas that shall be comprehensively recorded on the video surveillance system include the following:

(1) Areas where cannabis or cannabis products are weighed, packed, stored, quarantined, loaded and unloaded for transportation, prepared, or moved within the premises;

(2) Limited-access areas;

(3) Security rooms;

(4) Areas containing surveillance-system storage devices, which shall contain at least one camera to record the access points to such an area; and

(5) The interior and exterior of all entrances and exits to the premises.

(d) The surveillance system shall record continuously 24 hours per day and at a minimum speed of 15 frames per second.

(e) Monitoring equipment and any on-site surveillance system storage devices shall be located in secure rooms or areas of the premises in an access-controlled environment.

(f) The licensee shall ensure that all surveillance recordings are kept for a minimum of 90 days.

(g) All video surveillance recordings shall be available on the licensed premises and subject to inspection by the Department and shall also be copied and sent, or otherwise provided, to the Department upon request.

(h) The video recordings shall display the current date and time of recorded events. Time is to be measured in accordance with the U.S. National Institute of Standards and Technology standards. The displayed date and time shall not significantly obstruct the view of recorded images.

(i) If multiple licensed premises are contained within the same building, a single video surveillance covering the entire building may be used by all of the licensees under the following conditions:

(1) Each applicant or licensee shall disclose on their premises diagram where the surveillance recordings are stored;

(2) Each applicant or licensee shall include in their security operating procedures an explanation of how the video surveillance system will be shared, including who is responsible for monitoring the video footage and storing any video recordings;

(3) All licensees shall have immediate access to the surveillance recordings to produce them pursuant to the requirements of this section;

(4) All licensees shall be held responsible and subject to discipline for any violations of the video surveillance requirements.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26070, Business and Professions Code.

§40207. Notification of Theft, Loss, or Diversion.

If a licensee finds evidence of theft or diversion of cannabis or cannabis products, the licensee shall report the theft or diversion to the Department and local law enforcement within 24 hours of the discovery. The notice to the Department shall be in writing and shall include the date and time of the incident, a description of the incident, including items that were taken or missing, and the name of the local law enforcement agency that was notified of the incident. The notice may be provided to the Department via email.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26070, Business and Professions Code.

Article 2. Extractions

§40220. Permissible Extractions.

(a) Except as provided in subsection (b), cannabis extraction shall only be conducted using the following methods:

(1) Mechanical extraction;

(2) Chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or glycerin. Nonhydrocarbon-based solvents shall be food grade;

(3) Chemical extraction using a professional closed loop CO₂ gas extraction system;

(4) Chemical extraction using a volatile solvent, as defined in Section 40100(xx), using a professional closed loop extraction system; or

(5) Any other method authorized by the Department pursuant to subsection (b).

(b) To request authorization from the Department to conduct cannabis extraction using a method other than those specified in paragraphs (1) through (4) of subsection (a), the applicant or licensee shall submit a detailed description of the extraction method, including any documentation that validates the method and any safety procedures to be utilized to mitigate any risk to public or worker health and safety.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26130, Business and Professions Code.

§40222. Volatile Solvent Extractions.

Chemical extractions using volatile solvents shall be subject to the following requirements:

(a) Hydrocarbon-based solvents shall be at least 99 percent purity;

(b) All extractions shall be performed in a closed loop extraction system as described in Section 40225; and

(c) No volatile solvent extraction operations shall occur in an area zoned as residential.

Authority: Sections 26012, 26013 and 26130, Business and Professions Code.

Reference: Sections 26011.5, 26105 and 26130, Business and Professions Code.

§40223. Ethanol Extractions.

(a) Ethanol used for extractions or for post-extraction processing shall be food-grade.

(b) Ethanol extraction operations shall be approved by the local fire code official and shall be operated in accordance with applicable Division of Occupational Safety and Health (Cal/OSHA) regulations and any other state and local requirements.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26130, Business and Professions Code.

§40225. Closed-Loop Extraction System Requirements.

(a) Chemical extractions using CO₂, a volatile solvent, or chlorofluorocarbon, hydrocarbon, or other fluorinated gas shall be conducted in a professional closed loop extraction system designed to recover the solvents. The system shall be commercially manufactured and bear a permanently affixed and visible serial number. The system shall be certified by a California-licensed engineer that the system was commercially manufactured, safe for use with the intended solvent, and built to codes of recognized and generally accepted good engineering practices, such as:

- (1) The American Society of Mechanical Engineers (ASME);
- (2) American National Standards Institute (ANSI);
- (3) Underwriters Laboratories (UL); or
- (4) The American Society for Testing and Materials (ASTM).

(b) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code official and comply with any required fire, safety, and building code requirements related to the processing, handling, and storage of the applicable solvent or gas.

(c) The certification document required pursuant to subsection (a) shall contain the signature and stamp of a California-licensed professional engineer and the serial number of the extraction unit being certified.

(d) The licensee shall establish and implement written procedures to document that the closed loop extraction system is maintained in accordance with the equipment manufacturer specifications and to ensure routine verification that the system is operating in accordance with specifications and continues to comply with fire, safety, and building code requirements.

(e) A licensee shall develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts. Any personnel using solvents or gases in a closed loop system to create extracts must be fully trained on how to use the system, have direct access to applicable safety data sheets, and handle and store solvents and gases safely.

(f) The extraction operation shall be operated in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present, and shall be operated in accordance with applicable Division of Occupational Safety and Health (Cal/OSHA) regulations and any other state and local requirements.

(g) No closed loop extraction system operation shall occur in an area zoned as residential.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26011.5, Business and Professions Code.

Article 3. Good Manufacturing Practices

§40230. Manufacturing Practices Definitions.

In addition to the definitions in section 26001 of the Act and Section 40100 of these regulations, the following definitions shall govern the construction of this subchapter:

(a) “Actual yield” means the quantity that is actually produced at any appropriate step of manufacture or packaging of a particular cannabis product.

(b) “Adequate” means that which is necessary to accomplish the intended purpose in keeping with good public health practice to ensure cannabis product quality.

(c) “Allergen cross-contact” means the unintentional incorporation of a food allergen into a cannabis product.

(d) “Component” means any substance or item intended for use in the manufacture of a cannabis product, including those substances or items that are not intended to appear in the final form of the product. “Component” includes cannabis, cannabis products used as ingredients, other ingredients, and processing aids.

(e) “Contact surface” means any surface that contacts cannabis products and cannabis product components and those surfaces from which drainage, or other transfer, onto the cannabis product or cannabis product components, occurs during the normal course of operations. Examples of contact surfaces include containers, utensils, tables, and equipment.

(f) “Environmental pathogen” means a pathogen capable of surviving and persisting within the manufacturing environment such that cannabis products may be contaminated and may result in illness if consumed or used without treatment to significantly minimize the environmental pathogen. Examples of environmental pathogens include *Listeria monocytogenes* and *Salmonella spp.* but do not include the spores of pathogenic spore-forming bacteria.

(g) “Hazard” means any biological, chemical, radiological, or physical agent that has the potential to cause illness or injury.

(h) “Holding” means storage of cannabis or cannabis products and includes activities performed incidental to storage of a cannabis product and activities performed as a practical necessity for the distribution of that cannabis product.

(i) “In-process material” means any material that is fabricated, compounded, blended, ground, extracted, sifted, sterilized, derived by chemical reaction, or processed in any other way for use in the manufacture of a cannabis product.

(j) “Microorganisms” means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species that are pathogens. The term “undesirable microorganisms” includes those microorganisms that are pathogens, that subject a cannabis product to decomposition, that indicate that a cannabis product is contaminated with filth, or that otherwise may cause a cannabis product to be adulterated.

(k) “Monitor” means to conduct a planned sequence of observations or measurements to assess whether control measures are operating as intended.

(l) “Pathogen” means a microorganism that can cause illness or injury.

(m) “Pest” means an undesired insect, rodent, nematode (small worm), fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism (except microorganisms on or in humans or animals) injurious to health or the environment.

(n) “Preventive controls” means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified pursuant to a hazard analysis.

(o) “Processing aid” means any substance that is added to a cannabis product during manufacture but is removed in some manner from the cannabis product before it is packaged in its finished form. This includes substances that are converted into constituents normally present in the product, and do not significantly increase the amount of the constituent naturally found in the product. This also includes substances that are added to a product for their technical or functional effect in the processing but are present in the finished product at insignificant levels and do not have any technical or functional effect in that product.

(p) “Qualified individual” means a person who has the education, training, or experience (or a combination thereof) necessary to manufacture quality cannabis products as appropriate to the individual's assigned duties. A qualified individual may be, but is not required to be, an employee of the licensee.

(q) “Quality control” means a planned and systematic operation or procedure for ensuring the quality of a cannabis product.

(r) “Quality control operation” means a planned and systematic procedure for taking all actions necessary to prevent cannabis product(s) from being adulterated or misbranded.

(s) “Quality control personnel” means any person, persons, or group, designated by the licensee to be responsible for quality control operations.

(t) “Raw material” means any unprocessed material in its raw or natural state that is intended to become part of the components of a cannabis product.

(u) “Sanitize” means to adequately treat cleaned surfaces by a process that is effective in destroying vegetative cells of pathogens, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

(v) “Theoretical yield” means the quantity of a particular cannabis product that would be produced at any appropriate step of manufacture or packaging, based upon the quantity of components or packaging to be used, in the absence of any loss or error in actual production.

(w) “Validate” means obtaining and evaluating scientific and technical evidence that a control measure, combination of control measures, or quality control procedures as a whole, when properly implemented, is capable of ensuring the quality of a cannabis product or effectively controlling an identified hazard.

(x) “Verification” means the application of methods, procedures, tests, or other evaluations, in addition to monitoring, to determine whether a control measure or combination of control measures is or has been operating as intended and to establish the validity of the quality control procedures.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26001; 26120; and 26130, Business and Professions Code.

§40232. Requirements for Personnel.

The licensee shall establish and implement written procedures to ensure the following for all personnel:

(a) Disease control. Any individual who by medical examination or supervisory observation is shown to have, or appears to have, an illness, open lesion (such as boils, sores, or infected wounds), or any other source of microbial contamination presenting a reasonable threat of contamination to cannabis products, contact surfaces, or packaging materials, shall be excluded from any related manufacturing operations until their health condition is corrected. Open lesions, boils, and infected wounds shall be adequately covered (e.g., by an impermeable cover). Personnel shall be instructed to report such health conditions to their supervisors.

(b) Cleanliness. All individuals working in direct contact with cannabis products, cannabis product-contact surfaces, and cannabis product-packaging materials shall conform to hygienic practices to the extent necessary to protect against allergen cross-contact and contamination of cannabis products while on duty. The methods for maintaining cleanliness include:

(1) Wearing appropriate outer garments to protect against allergen cross-contact and contamination of cannabis products, contact surfaces, and packaging materials;

(2) Maintaining adequate personal cleanliness;

(3) Washing hands thoroughly in an adequate hand-washing facility before starting work, after each absence from the work station, and at any time when the hands may have become soiled or contaminated, and sanitizing hands if necessary to protect against contamination with undesirable microorganisms;

(4) Removing all unsecured jewelry and other objects that might fall into cannabis products, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which cannabis products are manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects against the contamination by these objects of the cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials;

(5) Maintaining any gloves, if they are used in cannabis product handling in an intact, clean, and sanitary condition;

(6) Wearing hair nets, headbands, caps, beard covers, or other hair restraints in an effective manner, where appropriate;

(7) Storing clothing or other personal belongings in areas separate from those where cannabis products are exposed or where equipment or utensils are washed;

(8) Confining the following activities to areas separate from those where cannabis products may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, and/or using tobacco;

(9) Taking any other necessary precautions to protect against allergen cross-contact and against contamination of cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials by microorganisms or foreign substances (including perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin).

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40234. Grounds.

The licensee shall establish and implement written procedures to ensure that the grounds of the premises that are controlled by the licensee are kept in a condition that prevents the contamination of components and cannabis products. The methods for adequate maintenance of the grounds shall include at minimum:

(a) The proper storage of equipment, removal of litter and waste, and cutting of weeds or grass within the immediate vicinity of the cannabis manufacturing premises so that they do not constitute an attractant, breeding place, or harborage for pests.

(b) The proper maintenance of roads, yards, and parking lots so that these areas shall not constitute a source of contamination in areas where cannabis products are handled or transported.

(c) The provision of adequate draining areas in order to prevent contamination by seepage, foot-borne filth, or the breeding of pests due to unsanitary conditions.

(d) The provision and maintenance of waste treatment and disposal systems so as to prevent contamination in areas where cannabis products may be exposed to such a system's waste or waste by-products.

(e) If the premises is bordered by grounds outside the licensee's control that are not maintained in the manner described in subsections (a) through (d) of this section, inspection, extermination, and other reasonable care shall be exercised within the premises in order to eliminate any pests, dirt, and filth that pose a source of cannabis product contamination.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40236. Premises Construction and Design.

At minimum, a cannabis manufacturing premises shall:

(a) Provide adequate space for such placement of equipment and storage of materials as is necessary for maintenance, sanitary operations, and the production of quality cannabis products.

(b) Permit the taking of adequate precautions to reduce the potential for allergen cross-contact and for contamination of cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials by microorganisms, chemicals, filth, and other extraneous material.

(c) Permit the taking of adequate precautions to protect product components in installed outdoor bulk vessels by any effective means, including:

(1) Using protective coverings;

(2) Controlling areas over and around the vessels in order to eliminate harborages for pests; or

(3) Checking such vessels on a regular basis for pests and pest infestation.

(d) Be constructed in such a manner that floors, walls, and ceilings may be adequately cleaned and kept clean and in good repair.

(e) Be constructed in such a manner that drip or condensate from fixtures, ducts and pipes does not contaminate cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials.

(f) Be constructed in such a manner so as to provide adequately wide and unobstructed aisles or working spaces between equipment and walls that permit employees to both perform their duties and protect against the contamination of cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials via clothing or personal contact.

(g) Provide adequate lighting in hand-washing areas; dressing and locker rooms; toilet facilities; all areas where components or cannabis products are examined, manufactured, processed, packed, or held; and in all areas where equipment or utensils are cleaned.

(h) Provide shatter-resistant light bulbs, fixtures, skylights, and other shatter-resistant glass fixtures in all areas where glass breakage may result in the contamination of exposed cannabis, components or products at any step of preparation.

(i) Provide adequate ventilation or control equipment to minimize dust, odors and vapors (including steam and noxious fumes) in areas where they may cause allergen cross-contact or contamination of cannabis products; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for allergen cross-contact and contamination of cannabis products, cannabis product-packaging materials, and cannabis product-contact surfaces.

(j) Provide, where necessary, adequate screening or other protection against pests.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40238. Sanitary Operations.

The licensee shall establish and implement written sanitary operation procedures to ensure the following:

(a) The premises, including any buildings, fixtures, and other physical facilities therein, are maintained in a clean and sanitary condition and are kept in good repair so as to prevent cannabis products from becoming adulterated.

(b) The cleaning and sanitization of utensils and equipment is conducted in a manner that protects against allergen cross-contact and contamination of cannabis products or product components, cannabis product-contact surfaces, or cannabis product-packaging materials.

(c) Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures are free from undesirable microorganisms and are safe and adequate under their conditions of use. Only the following toxic materials shall be used or stored in a manufacturing premises where cannabis products are processed or exposed:

- (1) Those required to maintain clean and sanitary conditions;
- (2) Those necessary for premises and equipment maintenance and operation; and
- (3) Those necessary for use in the cannabis manufacturing premises operations.

(d) Toxic cleaning compounds, sanitizing agents, and pesticide chemicals are identified, held, and stored in a manner that protects against contamination of product components, cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials.

(e) Measures are taken to exclude pests from the cannabis manufacturing premises in all areas where cannabis components and products may be at risk of contamination by pests. The use of pesticides to control pests in the cannabis manufacturing premises is permitted only under precautions and restrictions that protect against the contamination of cannabis products, cannabis product-contact surfaces, and cannabis product-packaging materials.

(f) All cannabis product-contact surfaces including utensils and equipment are cleaned as frequently as necessary to protect against allergen cross-contact and contamination of cannabis products.

(g) Cannabis product-contact surfaces used for manufacturing, processing, packing or holding low-moisture cannabis products shall be maintained in a clean, dry, and sanitary condition before use. When such surfaces are wet-cleaned, they shall, when necessary, be sanitized and thoroughly dried before subsequent use.

(h) When cleaning is necessary to protect against allergen cross-contact or the introduction of microorganisms into cannabis products during processing methods that utilize water (wet processing), all cannabis product-contact surfaces shall be cleaned and sanitized before use and after any interruption during which cannabis product-contact surfaces may have become contaminated. Where equipment and utensils are used in a continuous production operation, their surfaces shall be cleaned and sanitized as necessary.

(i) Single-service articles (such as utensils intended for one-time use, paper cups, and paper towels) are stored, handled, and disposed of in a manner that protects against allergen cross-contact and contamination of cannabis product, cannabis product-contact surfaces, or cannabis product-packaging materials.

(j) The non-cannabis product-contact surfaces of equipment used in the cannabis manufacturing premises are cleaned in a manner and as frequently as necessary to protect against allergen cross-contact and contamination of cannabis products, cannabis product-contact surfaces, and cannabis product-packaging materials.

(k) Cleaned and sanitized portable equipment with cannabis product-contact surfaces and utensils are stored in a location and manner that protects cannabis product-contact surfaces from allergen cross-contact and contamination.

(l) The sanitary operation procedures shall include maintenance, cleaning, and sanitization schedules or logs to document and ensure that the required operation has occurred.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40240. Sanitary Facilities and Controls.

The manufacturing premises shall be equipped with adequate sanitary accommodations as follows:

(a) Water supply. The water supply shall be adequate for the operations intended and derived from an adequate source. Any water that contacts cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials shall be

safe and of adequate sanitary quality. Running water shall be provided in all areas where required for the processing of cannabis products, for the cleaning of equipment, utensils, and cannabis product-packaging materials, and for employee sanitary facilities.

(b) Plumbing. Plumbing systems shall be of adequate size and design and shall be adequately installed and maintained in order to:

(1) Carry adequate quantities of water to required locations throughout the manufacturing premises;

(2) Properly convey sewage and liquid disposable waste from the premises;

(3) Avoid the creation of unsanitary conditions and contamination to cannabis products, water supplies, equipment, or utensils;

(4) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor;

(5) Provide that there is not backflow from, or cross-connection between, piping systems that discharge waste water or sewage, and piping systems that carry water for cannabis products or cannabis product manufacturing.

(c) Sewage disposal. Sewage shall be disposed of into an adequate sewerage system or through other adequate means.

(d) Toilet facilities. Each manufacturing premises shall provide employees with access to adequate, readily accessible toilet facilities. Toilet facilities shall be kept clean and shall not pose a potential source of contamination of cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials.

(e) Hand-washing facilities. Each manufacturing premises shall provide hand-washing facilities designed to ensure that an employee's hands do not pose a source of contamination to cannabis products, cannabis product-contact surfaces, or cannabis product-packaging materials. Hand-washing facilities shall be adequate, convenient, and furnish running water of at least 100° F (30° C).

(f) Waste disposal. Waste shall be conveyed, stored, and disposed of so as to minimize the development of odor, minimize the potential that waste will attract, harbor, or otherwise contribute to the breeding of pests, and protect against the contamination

of cannabis products, cannabis product-contact surfaces, cannabis product-packaging materials, water supplies, and ground surfaces.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26011.5; and 26131, Business and Professions Code.

§40242. Equipment and Utensils.

(a) All manufacturing equipment and utensils used in manufacturing cannabis products shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be adequately maintained to protect against allergen cross-contact and contamination.

(b) Equipment and utensils shall be designed, constructed, and used appropriately to avoid the adulteration of cannabis products with lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

(c) Equipment shall be installed so as to facilitate the cleaning and maintenance of the equipment and of adjacent spaces. Schedules or logs documenting the date and time of maintenance, cleaning and sanitizing of equipment shall be maintained.

(d) Cannabis product-contact surfaces shall be corrosion-resistant when in contact with cannabis products.

(e) Cannabis product-contact surfaces shall be made of nontoxic materials, designed to withstand the environment of their intended use, and, if applicable, cleaning compounds, sanitizing agents, and cleaning procedures.

(f) Cannabis product-contact surfaces shall be maintained to protect cannabis products from allergen cross-contact and from contamination by any source.

(g) Seams on cannabis product-contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of particles, dirt, and organic matter and thus minimize the opportunity for growth of microorganisms and allergen cross-contact.

(h) Equipment in areas where cannabis products are manufactured and that do not come into contact with cannabis products shall be constructed so that they may be kept in a clean and sanitary condition.

(i) Holding, conveying, and manufacturing systems, including gravimetric, pneumatic, closed, and automated systems, shall be of a design and construction that enables them to be maintained in a clean and sanitary condition.

(j) Each freezer and cold storage compartment used to store and hold cannabis products, ingredients, or components capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature-measuring device, or temperature-recording device so installed as to show the temperature accurately within the compartment.

(k) Instruments and controls used for measuring, regulating, or recording temperatures, pH, acidity, water activity, or other conditions that control or prevent the growth of undesirable microorganisms in cannabis products or components shall be accurate, precise, adequately maintained and calibrated, and be provided in an adequate number for their designated use(s). Schedules or logs documenting the maintenance and calibration of such instruments and controls shall be maintained to ensure the required operation has occurred.

(l) Compressed air or other gases mechanically introduced into cannabis products or used to clean cannabis product-contact surfaces or equipment shall be treated in such a way that cannabis products shall not be contaminated.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

Article 4. Production and Process Controls.

§40250. General Provisions.

(a) Appropriate quality control operations shall be employed to ensure that cannabis products are suitable for human consumption or use, and that cannabis product-packaging materials are safe and suitable.

(b) Overall sanitation of the premises shall be under the supervision of one or more qualified individuals assigned responsibility for this function.

(c) Adequate precautions shall be taken to ensure that production procedures do not contribute to allergen cross-contact or contamination from any source.

(d) Chemical, microbial, or extraneous-material testing procedures shall be used where necessary to identify sanitation failures or possible allergen cross-contact and cannabis product contamination.

(e) Any cannabis product that has become contaminated to the extent that it is adulterated shall be rejected, or if appropriate, treated or processed to eliminate the contamination, as determined by a qualified individual.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40252. Quality of Raw Materials and Ingredients.

The licensee shall establish and implement written policies and procedures to ensure the quality of raw materials and ingredients as follows:

(a) Raw materials and other ingredients shall be inspected, segregated, or otherwise handled as necessary to ensure that they are clean and suitable for processing into cannabis products, and shall be stored under conditions that protect against allergen cross-contact and contamination, and in such a way as to minimize deterioration.

(b) Raw materials must be washed or cleaned as necessary to remove soils and other contaminants. Water used for washing, rinsing, or conveying cannabis product ingredients must be safe and of adequate sanitary quality.

(c) Raw materials and other ingredients shall not contain levels of microorganisms that render the cannabis product injurious to human health, or shall be pasteurized or

otherwise treated during manufacturing so that they no longer contain levels of microorganisms that would cause the cannabis product to be adulterated.

(d) Raw materials and other ingredients susceptible to contamination with aflatoxin or other natural toxins, pests, or extraneous material shall not exceed generally acceptable limits set by the U.S. Food and Drug Administration in the *Defect Levels Handbook* (Rev. February 2005), which is hereby incorporated by reference, before these raw materials or other ingredients are incorporated into finished cannabis products.

(e) Raw materials and other ingredients shall be held in containers designed and constructed so as to protect against allergen cross-contact or contamination, and shall be held at such temperature and relative humidity and in such a manner as to prevent the cannabis products from becoming adulterated.

(f) Frozen raw materials and other ingredients shall be kept frozen. If thawing is required prior to use, it shall be done in a manner that prevents the raw materials and other ingredients from becoming adulterated.

(g) Raw materials and other ingredients that are food allergens shall be identified and held in a manner that prevents cross-contact with other raw materials or ingredients.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40254. Manufacturing Operations.

The licensee shall establish and implement written manufacturing operation procedures to ensure the following:

(a) All cannabis product manufacturing shall be conducted under such conditions and controls as are necessary to minimize the potential for the growth of microorganisms, allergen cross-contact, contamination of cannabis products, and deterioration of cannabis products.

(b) Cannabis products capable of supporting the rapid growth of undesirable microorganisms shall be held at temperatures that prevent the cannabis product from becoming adulterated during manufacturing, processing, packing and holding.

(c) Measures such as sterilizing, irradiating, pasteurizing, cooking, freezing, refrigerating, controlling pH, or controlling water activity that are undertaken to destroy or prevent the growth of undesirable microorganisms shall be adequate under the conditions of manufacture, handling, and transfer to prevent the cannabis product from being adulterated. For purposes of this chapter, “water activity” (a_w) is a measure of the free moisture in a manufactured cannabis product and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

(d) Work-in-process shall be handled in a manner that protects against allergen cross-contact, contamination, and growth of microorganisms.

(e) Measures shall be taken to protect finished cannabis products from allergen cross-contact and from contamination by raw materials, other ingredients, rejected components, or waste. When raw materials, other ingredients, or waste are unprotected, they shall not be handled simultaneously in a receiving, loading or shipping area if such handling could result in allergen cross-contact or contaminated cannabis products. Cannabis products transported by conveyer shall be protected against allergen cross-contact and against contamination as necessary.

(f) Equipment, containers, and utensils used to convey, hold, or store raw materials and other ingredients, work-in-process, or other cannabis products shall be constructed, handled, and maintained during manufacturing, processing, packing, and holding in a manner that protects against allergen cross-contact and contamination.

(g) Adequate measures shall be taken to protect against the inclusion of metal or other extraneous material in cannabis products.

(h) Adulterated cannabis products, raw materials, or other ingredients shall be either:

(1) Disposed of in a manner that protects against the contamination of other cannabis products or ingredients; or

(2) Reprocessed, if appropriate, using a method that has been proven to be effective and subsequently reexamined and found to be unadulterated.

(i) Steps such as washing, peeling, trimming, cutting, sorting, inspecting, mashing, dewatering, cooling, shredding, extruding, drying, whipping, defatting, and forming shall be performed so as to protect cannabis products against allergen cross-contact and contamination. Cannabis products shall be protected from contaminants that may drip, drain, or be drawn into the cannabis product.

(j) When required in the preparation of cannabis products capable of supporting microbial growth, heat blanching shall be conducted by heating the cannabis product or component to a temperature to control microbial growth, holding at that temperature for an amount of time to control microbial growth, and then either rapidly cooling the cannabis product or passing it to subsequent manufacturing without delay. Growth and contamination by thermophilic microorganisms in blanchers shall be minimized by the use of adequate operating temperatures and by periodic cleaning and sanitization as necessary.

(k) Batters, breading, sauces, gravies, dressings, dipping solutions, and other similar preparations that are held and used repeatedly over time shall be treated or maintained in such a manner that they are protected against allergen cross-contact and contamination, and in a manner that minimizes the potential growth of undesirable microorganisms.

(l) Filling, assembling, packaging, and related operations shall be performed in such a way that the cannabis product is protected against allergen cross-contact, contamination and growth of undesirable microorganisms.

(m) Cannabis products that principally rely on the control of water activity (a_w) for preventing the growth of undesirable microorganisms (such as dry mixes, nuts, and dehydrated cannabis products) shall be processed and maintained at a safe moisture level. For purposes of this section “safe moisture level” is a level of moisture low enough to prevent the growth of undesirable microorganisms in the finished product under the intended conditions of manufacturing. The safe moisture level for an edible cannabis product is related to its a_w . An a_w will be considered safe for a manufactured cannabis product if adequate data is available to demonstrate that at or below the given a_w the manufactured cannabis product will not support the growth of undesirable microorganisms.

(n) When ice is used in contact with cannabis products, the ice shall be made from water that is safe, potable, and of adequate sanitary quality.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40256. Hazard Analysis.

The licensee shall conduct and prepare a written hazard analysis to identify and evaluate known or reasonably foreseeable hazards that could affect cannabis product quality for each type of cannabis product produced at the manufacturing premises. The hazard analysis shall be used to determine whether there are any hazards requiring a preventive control in order to assure that cannabis products are not adulterated or misbranded. The hazard analysis shall include:

(a) The identification of reasonably foreseeable hazards, including:

(1) Biological hazards, including microbiological hazards;

(2) Chemical hazards, including radiological hazards, pesticide(s) contamination, solvent or other residue, natural toxins, decomposition, or food allergens; and

(3) Physical hazards, such as stone, glass, metal fragments, hair or insects.

(b) The evaluation of the hazards identified in order to assess the severity of any illness or injury that may occur as a result of a given hazard, and the probability that the hazard will occur in the absence of preventive controls.

(c) The hazard evaluation shall consider the effect of the following on the safety of the finished cannabis product for the intended consumer:

(1) The sanitation conditions of the manufacturing premises, including employee hygiene;

(2) The product formulation;

(3) The design, function and condition of the manufacturing premises and its equipment;

(4) The raw material, ingredients and other components used in a given cannabis product;

(5) Product transportation and transfer practices;

- (6) The manufacturing and processing procedures;
- (7) The packaging and labeling activities;
- (8) The storage of components and the finished cannabis product;
- (9) The intended or reasonably foreseeable use of the finished cannabis product;
- (10) Any other relevant factors.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40258. Preventive Controls.

Upon completion of the hazard analysis, the licensee shall identify and implement written preventive controls to provide assurance that any hazards requiring a preventative control will be significantly minimized or prevented such that the manufactured cannabis product is not adulterated or misbranded. The preventive controls shall include the following components:

(a) The identification of critical control points, if any. Critical control points are the points, steps or procedures in a given process at which control can be applied, and as a result, a hazard can be prevented, eliminated, or reduced to acceptable levels.

(b) The establishment of critical limits for each critical control point. Critical limits are the maximum or minimum value to which a physical, biological, or chemical hazard must be controlled in order to prevent, eliminate, or reduce to an acceptable level the occurrence of an identified hazard. For example: the establishment of specific limits on temperature, humidity, or pH.

(c) The identification of controls, other than those at critical control points, that are appropriate for ensuring cannabis product quality. Such controls include:

(1) Cleaning, sanitizing, and maintenance of the premises, equipment, and machinery as identified in the licensee's standard operating procedures and as may be specified by the equipment's manufacturer, as required pursuant to Subchapter 3.

(2) Supervisor, manager, and employee quality control and hygiene training, as required by sections 40232 and 40280.

(3) An environmental monitoring program for the premises to verify the effectiveness of pathogen controls in processes where a cannabis product is exposed to a possible contaminant in the manufacturing environment required pursuant to Subchapter 3.

(4) A food allergen control program to prevent allergen cross-contact as required pursuant to Subchapter 3.

(d) The establishment and implementation of monitoring procedures in order to use monitoring results to assess whether control measures are operating as intended. This shall include specifying the frequency and documentation requirements for monitoring, and routine verification that any monitoring equipment or instruments are operating in accordance with specifications.

(e) The establishment and implementation of corrective actions to be taken when monitoring indicates there is a deviation from an established critical limit or other preventative control measures are not properly implemented or are found to be ineffective. This shall include procedures for ensuring:

(1) Appropriate action is taken to identify and correct a problem that has occurred with implementation of a preventative control;

(2) Appropriate action is taken, when necessary, to reduce the likelihood that a problem will recur;

(3) All affected material(s) or product(s) are evaluated for safety;

(4) All affected material(s) or product(s) are prevented from entering into commerce if the safety or quality of that material(s) or product(s) cannot be verified.

(f) The establishment and implementation of record keeping procedures to document hazard analyses and control plans, identify the person responsible for each step, identify the corrective actions to be taken upon the discovery of a deviation, and documentation of instances of nonconformance material to product quality and corrective actions implemented. These records shall be subject to review by the Department.

(g) The establishment and implementation of verification procedures in order to validate that preventative controls are consistently implemented and are effective in minimizing or preventing identified hazards; and that monitoring activities are being conducted as required. Verification procedures shall include schedules or logs with the

date and time of performance of the preventative control activity and the initials of the individual(s) completing the activity.

(h) A licensee shall conduct a re-analysis of the hazard analysis and preventive controls whenever a significant change is made in the activities conducted at the premises if the change creates a reasonable potential for a new hazard or significant increase in a previously identified hazard, and shall implement any new preventive controls as necessary to comply with this Section.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40262. Master Manufacturing Protocol.

The licensee shall establish and follow a written master manufacturing protocol for each unique formulation of cannabis product manufactured, and for each batch size, to ensure uniformity in finished batches and across all batches produced.

(a) The master manufacturing protocol shall:

(1) Identify specifications for the points, steps, or stages in the manufacturing process where control is necessary to ensure the quality of the cannabis product and that the cannabis product is packaged and labeled as specified in the master manufacturing protocol; and

(2) Establish controls and procedures to ensure that each batch of cannabis product manufactured meets the specifications identified in accordance with subsection (a)(1) of this section.

(b) The master manufacturing protocol shall include:

(1) The name and intended cannabinoid(s) concentration of the cannabis product to be manufactured, and the strength, concentration, weight, or measure of each ingredient for each batch size;

(2) A complete list of components to be used;

(3) The weight or measure of each component to be used;

(4) The identity and weight or measure of each ingredient that will be declared on the ingredients list of the cannabis product;

(5) A statement of theoretical yield of a manufactured cannabis product expected at each point, step, or stage of the manufacturing process where control is needed to ensure the quality of the cannabis product, and the expected yield of the finished product, including the maximum and minimum percentages of theoretical yield beyond which a deviation investigation of a batch is necessary and material review is conducted and disposition decision is made;

(6) A description of packaging and a representative label, or a cross-reference to the physical location of the actual or representative label;

(7) Written instructions, including the following:

(A) Specifications for each point, step, or stage in the manufacturing process where control is necessary to ensure the quality of the cannabis product and that the cannabis product is packaged and labeled as specified in the master manufacturing record;

(B) Procedures for product and batch sampling and a cross-reference to procedures for tests or examinations of products and batches;

(C) Specific actions necessary to perform and validate points, steps, or stages in the manufacturing process where control is necessary to ensure the quality of the cannabis product and that the cannabis product is packaged and labeled as specified in the master manufacturing record;

(D) Special notations and precautions to be followed; and

(E) Corrective action plans for use when a specification is not met.

(8) The master manufacturing protocol for any given product may include the ability to adjust the amount or weight of cannabinoid-containing ingredients in order to account for the variability of cannabinoid content in harvest batches.

(c) Nothing in this chapter requires disclosure of the master manufacturing protocol to any person other than the individuals conducting activities that utilize the protocol or to the Department and its inspectors and agents. The licensee may consider the master manufacturing protocol subject to trade secret protection.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40264. Batch Production Record.

(a) The licensee shall prepare a written batch production record every time a batch of a cannabis product is manufactured. The batch production record shall accurately follow the appropriate master manufacturing protocol, and each step of the protocol shall be performed in the production of the batch.

(b) The batch production record shall document complete information relating to the production and control of each batch, including all of the following details:

(1) The UID, and if used, the batch or lot number, of the finished batch of cannabis product and the UIDs of all cannabis products used in the batch.

(2) The equipment and processing lines used in producing the batch;

(3) The date and time of the maintenance, cleaning, and sanitizing of the equipment and processing lines used in producing the batch, or a cross-reference to records, such as individual equipment logs, where this information is retained;

(4) The identification number assigned to each component, packaging, and label used, and, if applicable, to a cannabis product received from another licensee for packaging or labeling as a cannabis product;

(5) The identity and weight or measure of each component used;

(6) A statement of the actual yield and a statement of the percentage of theoretical yield at appropriate phases of processing;

(7) The actual results obtained during any monitoring operation;

(8) The results of any testing or examination performed during the batch production, or a cross-reference to such results; and

(9) Documentation, at the time of performance, of the manufacture of the batch, including:

(A) The date on which each step of the master manufacturing protocol was performed; and

(B) The initials of the persons performing each step, including:

(i) The initials of the person responsible for weighing or measuring each component used in the batch;

(ii) The initials of the person responsible for verifying the weight or measure of each component used in the batch;

(iii) The initials of the person responsible for adding the component to the batch; and
(iv) The initials of the person responsible for verifying the addition of components to the batch.

(10) Documentation, at the time of performance, of packaging and labeling operations, including:

(A) An actual or representative label, or a cross-reference to the physical location of the actual or representative label specified in the master manufacturing record;

(B) The expected number of packaging and labels to be used, the actual quantity of the packaging and labels used, and, when label reconciliation is required, reconciliation of any discrepancies between issuance and use of labels; and

(C) The results of any tests or examinations conducted on packaged and labeled cannabis products (including repackaged or relabeled cannabis products), or a cross-reference to the physical location of such results.

(11) Documentation, at the time of performance, that quality control personnel:

(A) Reviewed the batch production record;

(B) Reviewed all monitoring operation(s) required by this article;

(C) Reviewed the results of all tests and examinations, including tests and examinations conducted on components, in-process materials, finished batches of cannabis product, and packaged and labeled cannabis products;

(D) Either approved and released, or rejected, the batch for distribution; and

(E) Either approved and released, or rejected, the finished cannabis product, including any repackaged or relabeled cannabis product.

(12) Documentation, at the time of performance, of any required material review and disposition decision; and

(13) The Certificate of Analysis issued for the batch by the licensed testing laboratory.

(c) The batch production record shall:

(1) Contain the actual values and observations obtained during monitoring and, as appropriate, during verification activities;

(2) Be accurate, indelible, and legible;

(3) Be created concurrently with performance of the activity documented; and

- (4) Be as detailed as necessary to provide a history of work performed; including:
- (A) Information to identify any associated manufacturing premises (e.g., the name, license number, and the location of the premises);
 - (B) The date and the time of the activity documented;
 - (C) The signature or initials of the person performing the activity; and
 - (D) The identity of the product, the UID, and the lot number or batch identifier, if any.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40266. Product Complaints.

The licensee shall establish and implement written procedures to ensure that:

(a) A qualified individual shall review and investigate all product complaints to determine whether such complaints involve a possible failure of a cannabis product to meet any of its specifications;

(b) Quality control personnel shall review and approve decisions determining whether to investigate a product complaint and shall review and approve the findings and follow up action(s) of any investigation performed;

(c) Pursuant to sections (a) and (b) in this section, any review or investigative activities by qualified individuals and quality control personnel shall extend to all relevant batches and records.

(d) Quality control personnel shall maintain written records for every product complaint and subsequent investigation, if any. The records shall include:

- (1) The name and description of the cannabis product;
- (2) The batch number or UID of the cannabis product, if available;
- (3) The date the complaint was received and the name, address, and telephone number of the complainant, if available;
- (4) The nature of the complaint including, if known, how the product was used;
- (5) The reply to the complainant, if any;
- (6) The findings of the investigation or follow-up action taken when an investigation is performed; and

(7) The basis for any determination not to conduct an investigation.

(e) For purposes of this section, “product complaint” means any written, electronic, or oral communication that contains any allegation expressing concern, for any reason, with the quality of a cannabis product that could be related to the manufacturing practices. Examples of product complaints may include but are not limited to: foul odor, off taste, illness or injury, disintegration time, color variation, foreign material in a cannabis product container, improper packaging, mislabeling, cannabis products that contain an incorrect concentration of cannabinoids, or cannabis products that contain an unidentified ingredient, or any form of contaminant.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40268. Recalls.

A licensee shall establish and implement written procedures for recalling cannabis products manufactured by the licensee that are determined to be misbranded or adulterated. These procedures shall include:

(a) Factors which necessitate a recall;

(b) Personnel responsible for implementing the recall procedures; and

(c) Notification protocols, including:

(1) A mechanism to notify all customers that have, or could have, obtained the product, including communication and outreach via media, as necessary and appropriate;

(2) A mechanism to notify any licensees that supplied or received the recalled product;

(3) Instructions to the general public and other licensees for the return or destruction of the recalled product.

(d) Procedures for the collection and destruction of any recalled product. Such procedures shall meet the following requirements:

(1) All recalled products that are intended to be destroyed shall be quarantined for a minimum of 72 hours. The licensee shall affix to the recalled products any bills of lading,

shipping manifests, or other similar documents with product information and weight. The product held in quarantine shall be subject to auditing by the Department.

(2) Following the quarantine period, the licensee shall render the recalled cannabis product unusable and unrecognizable and dispose of it in accordance with Section 40290, and do so on video surveillance in accordance with Section 40205.

(e) In addition to the tracking requirements set forth in Section 40512, a licensee shall use the track-and-trace database and on-site documentation to ensure that recalled cannabis products intended for destruction are identified, weighed, and tracked while on the licensed premises and when disposed of in accordance with this section. For recalled cannabis products, the licensee shall enter the following details into the track and trace database: the weight of the product, reason for destruction, and the date the quarantine period will begin.

(f) The licensee shall notify the Department of any recall within 24 hours of initiating the recall.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

Article 5. Special Processing Requirements

§40270. Juice Processing.

(a) Requirements of this section shall apply to manufacturers of cannabis juice, and cannabis-infused juice or beverages.

(b) Manufacturers of juice or beverages shall prepare and implement a written juice hazard analysis and control plan in accordance with the requirements of 21 CFR, Part 120, subpart A, section 120.8, and subpart B, section 120.24, (Rev. January 2001), which is hereby incorporated by reference.

Authority: Sections 26012; 26013, and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

§40272. Dried Meat Processing.

Manufacturing of cannabis-infused dried meat products shall be conducted in accordance with the United States Department of Agriculture *FSIS Compliance Guideline for Meat and Poultry Jerky Produced by Small and Very Small Establishments: 2014 Compliance Guideline* (Rev. 2014), which is hereby incorporated by reference. Meat for processing into dried meat products shall be acquired from a commercially-available source.

Authority: Sections 26012; 26013, and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26131, Business and Professions Code.

Article 6. Other Responsibilities

§40275. Standard Operating Procedures.

(a) A licensee shall establish and maintain written standard operating procedures that are easily accessible to onsite personnel. The standard operating procedures shall, at minimum, include the following:

(1) Policies or procedures developed in accordance with the security plan required by Section 40200;

(2) Emergency response procedures, including safety data sheets for any chemicals on-site;

(3) Policies and procedures developed in accordance with Section 40225;

(4) Policies and procedures developed in accordance with Article 3 of this subchapter (Good Manufacturing Practices);

(5) Policies and procedures developed in accordance with Article 4 of this subchapter (Production and Process Control);

(6) Procedures for complying with the track-and-trace requirements established in Article 2 of subchapter 6;

(7) Inventory control procedures in compliance with Section 40282; and

(8) Cannabis waste management procedures in compliance with Section 40290.

(b) Procedures shall be written in English but may be made available in other languages, as necessary for the licensee's personnel.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; 26053; 26130; and 26160, Business and Professions Code.

§40277. Weights and Measures.

(a) Weighing devices used by a licensee shall be approved, tested, and sealed in accordance with the requirements in Chapter 5 (commencing with Section 12500) of Division 5 of the Business and Professions Code, and registered with the county sealer consistent with Chapter 2 (commencing with 12240) of Division 5 of the Business and Professions Code. Approved and registered devices shall be used whenever:

(1) Cannabis or cannabis product is bought or sold by weight or count;
(2) Cannabis or cannabis product is packaged for sale by weight or count;
(3) Cannabis or cannabis product is weighed or counted for entry into the track-and-trace system; and

(4) The weighing device is used for commercial purposes as defined in section 12500 of Business and Professions Code.

(b) For the purposes of this chapter, “count” means the numerical count of the individual cannabis product units.

(c) Whenever the weight or measurement of cannabis and cannabis products is determined as specified in subsection (a), products shall be weighed by a licensed weighmaster, and shall be issued a certificate consistent with the requirements in Chapter 7 (commencing with section 12700) of Division 5 of Business and Professions Code.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26060, Business and Professions Code.

§40280. Training Program.

(a) The licensee shall implement a training program to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics:

(1) Within 30 days of the start of employment:

(A) Health and safety hazards;

(B) Hazards presented by all solvents or chemicals used at the licensed premises as described in the safety data sheet for each solvent or chemical;

(C) Emergency procedures;

(D) Security procedures;

(E) Record keeping requirements; and

(F) Training requirements.

(2) Prior to independently engaging in any cannabis manufacturing process:

(A) An overview of the cannabis manufacturing process and standard operating procedure(s);

- (B) Quality control procedures;
- (C) Hazard analysis and control procedures, as appropriate;
- (D) Proper and safe usage of equipment or machinery;
- (E) Safe work practices applicable to an employee's job tasks, including appropriate use of any necessary safety or sanitary equipment;
- (F) Cleaning and maintenance requirements;
- (G) Emergency operations, including shutdown; and
- (H) Any additional information reasonably related to an employee's job duties.

(3) Additionally, a licensee that produces edible cannabis products shall ensure that all personnel who prepare, handle, or package edible products successfully complete a California food handler certificate course from an entity accredited by the American National Standards Institute (ANSI) within 90 days of commencing employment at the premises and again every three years during employment. The licensee shall obtain documentation evidencing the fulfillment of this requirement;

(4) The licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in this section. This annual refresher training must be completed within 12 months of the previous training completion date.

(b) The licensee shall maintain a record of training which contains at minimum:

(1) A list of all personnel at the premises, including at minimum, name and job duties of each;

(2) Documentation of training topics and dates of training completion, including refresher training, for all personnel;

(3) The signature of each individual personnel and the licensee verifying receipt and understanding of each training or refresher training completed by the individual; and

(4) Any official documentation attesting to the successful completion of required training by personnel.

(c) The licensee may assign responsibility for the training of individual personnel to supervisory personnel. Assigned supervisory personnel must have the education, training, or experience (or a combination thereof) necessary to ensure the production of quality cannabis products by all personnel. The assigned training personnel shall sign and date a document on an annual basis attesting that he or she has received and

understands all information that will be provided to individual personnel in the training program. This documentation shall be maintained as part of the record requirements.

(d) For licensees in operation pursuant to Section 40126, applicable personnel shall receive required training no later than 90 days after the effective date of the annual license.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; 26130; and 26160, Business and Professions Code.

§40282. Inventory Control – Cannabis and Cannabis Products.

(a) A licensee shall establish and implement a written inventory control plan capable of tracking the location and disposition of all cannabis and cannabis products at the licensed premises.

(b) A licensee shall reconcile the on-hand inventory of cannabis and cannabis products at the licensed premises with the records in the track-and-trace database at least once every thirty (30) calendar days.

(c) If a licensee finds a discrepancy between the inventory and the track-and-trace database, the licensee shall conduct an audit.

(d) If the inventory reconciliation conducted pursuant to subsection (b) or the audit conducted pursuant to subsection (c) reveals a discrepancy that is more than five percent of the documented inventory, the licensee shall notify the Department within 24 hours of the discovery.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26130, Business and Professions Code.

§40290. Waste Management.

(a) A licensee shall have a written cannabis waste management plan and shall dispose of all waste, including cannabis waste, in accordance with applicable state and local laws, including laws regulating “organic waste” as defined in Public Resources Code section 42649.8(c). It is the responsibility of the licensee to properly evaluate

waste to determine if it should be designated and handled as a hazardous waste, as defined in section 40141 of the Public Resources Code.

(b) A licensee shall dispose of any cannabis waste in a secured waste receptacle or secured area on the licensed premises. For the purposes of this section, “secured waste receptacle” or “secured area” means that physical access to the receptacle or area is restricted to the licensee, employees of the licensee, the local agency, waste hauler franchised or contracted by local government, or private waste hauler permitted by the local government only. Public access to the designated receptacle or area shall be prohibited.

(c) No cannabis product shall be disposed of in its packaging, and all cannabis waste shall be unrecognizable and unusable as cannabis or a cannabis product at the time of disposal.

(d) Cannabis waste shall be entered into the track-and-trace system as required under Section 40512.

(e) If a local agency, a waste hauler franchised or contracted by local government, or a private waste hauler permitted by local government is being used to collect and process cannabis waste, a licensee shall do all of the following:

(1) Maintain and make available to the Department upon request the business name, address, contact person, and contact phone number of the entity hauling the waste;

(2) Obtain documentation from the entity hauling the waste that indicates the date and time of each collection of cannabis waste at the licensed premises; and

(3) Obtain a copy of the certified weight ticket, or other documentation prepared by the entity hauling the waste confirming receipt of the cannabis waste at one, or more, of the following solid waste facilities:

(A) A manned fully permitted solid waste landfill or transformation facility;

(B) A manned fully permitted composting facility or manned composting operation;

(C) A manned fully permitted in-vessel digestion facility or manned in-vessel digestion operation; or

(D) A manned fully permitted transfer/processing facility or manned transfer/processing operation.

(f) If a licensee is self-hauling cannabis waste to one, or more, of the solid waste facilities in subsection (e)(3), the licensee shall obtain for each delivery of cannabis waste by the licensee a copy of a certified weight ticket or receipt from the solid waste facility. Only the licensee or its employees may transport self-hauled cannabis waste.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; 26013; and 26130, Business and Professions Code.

§40292. Consent to Sample Collection.

A manufacturer licensee that transfers possession but not title of cannabis products to a licensed distributor shall allow the Bureau, upon the Bureau's request, to collect samples for purposes of conducting oversight of licensed testing laboratories.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; 26013; and 26130, Business and Professions Code.

SUBCHAPTER 4. PRODUCTS

Article 1. Cannabis Product Standards

§40300. Prohibited Products.

The following types of products shall not be sold as cannabis products:

(a) Alcoholic beverages, as defined in section 23004 of the Business and Professions Code. This prohibition does not apply to tinctures that meet the requirements of Section 40308;

(b) Any product containing any non-cannabinoid additive that would increase potency, toxicity, or addictive potential, or that would create an unsafe combination with other psychoactive substances. Prohibited additives include, but are not limited to, nicotine and caffeine. This prohibition shall not apply to products containing naturally-occurring caffeine, such as coffee, tea, or chocolate;

(c) Any cannabis product that must be held at or below 41 degrees Fahrenheit to keep it safe for human consumption, including, but not limited to, cream or custard-filled pies; pies or pastries which consist in whole or in part of milk or milk products, or eggs; and meat-filled pies or pastries. This prohibition shall not apply to juices or beverages that need to be held below 41 degrees Fahrenheit if the juice or beverage was processed in accordance with Section 40270, or to infused butter manufactured [as](#) permitted by subsection (g);

(d) Any thermally processed low-acid cannabis product packed in a hermetically sealed container that, if it were a food, would be subject to the manufacturing requirements of Title 21, Code of Federal Regulations, Part 113;

(e) Any acidified cannabis product that, if it were a food, would be subject to the manufacturing requirements of Title 21, Code of Federal Regulations, Part 114;

(f) Any juice that is not shelf-stable or that is not processed in accordance with Section 40270;

(g) Dairy products of any kind, as prohibited by section 26001(t) of the Act, except that butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with cannabis may be sold as a cannabis product;

(h) Meat products other than dried meat products prepared in accordance with Section 40272;

(i) Seafood products of any kind;

(j) Any product that is manufactured by application of cannabinoid concentrate or extract to commercially available candy or snack food items without further processing of the product. Commercially available candy or snack food items may be used as ingredients in a cannabis product, provided that they are used in a way that renders them unrecognizable as the commercially available items and the label, including the ingredient list, does not note that the final cannabis product contains the commercially available item;

(k) Any cannabis product that the Department determines, on a case-by-case basis, is attractive to children, as specified in Section 40410;

(l) Any cannabis product that the Department determines, on a case-by-case basis, is easily confused with commercially available foods that do not contain cannabis;

(m) Any cannabis product in the shape of, or imprinted with the shape of a human being, either realistic or caricature, animal, insect, or fruit.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26130, Business and Professions Code; Section 37104, Food and Agricultural Code.

§40305. Requirements for Edible Cannabis Products.

(a) Except for cannabis, cannabis concentrate, or terpenes, no product ingredient or component shall be used in the manufacture of an edible cannabis product unless that ingredient or component is permitted by the United States Food and Drug Administration for use in food or food manufacturing, as specified in *Everything Added to Food in the United States*, available at <https://www.fda.gov/Food/IngredientsPackagingLabeling/FoodAdditivesIngredients/ucm115326.htm> or is Generally Recognized as Safe (GRAS) under sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act.

(b) Edible cannabis products that consist of more than a single serving shall either be:

(1) Scored or delineated to indicate one serving, if the edible cannabis product is in solid form. or purposes of this section, “delineated” includes directly marking the product to indicate one serving or providing a means by which a consumer can accurately identify one serving; or

(2) If the edible cannabis product is not in solid form, packaged in a manner such that a single serving is readily identifiable or easily measurable.

(c) An edible cannabis product consisting of multiple servings shall be homogenized so that each serving contains the same concentration of THC.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26130, Business and Professions Code.

§40306. Requirements for Topical Cannabis Products.

(a) Except for cannabis, cannabis concentrate, and terpenes, topical cannabis products shall only contain ingredients permitted for cosmetic manufacturing in accordance with Title 21, Code of Federal Regulations, Part 700, subpart B (section 700.11 et seq.) (Rev. March 2016), which is hereby incorporated by reference.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26011.5, Business and Professions Code.

§40308. Tinctures and Products Containing Alcohol.

Any tincture or product that contains more than 0.5% alcohol by volume as an ingredient, and is not otherwise an alcoholic beverage as defined in Business and Professions Code section 23004, shall be packaged in a container no larger than two (2) fluid ounces and shall include a calibrated dropper or other similar device capable of accurately measuring servings.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26011.5, Business and Professions Code.

Article 2. Cannabinoid Concentration Limits.

§40315. THC Concentration Limits.

(a) An edible cannabis product shall not contain more than:

- (1) 10 milligrams THC per serving; and
- (2) 100 milligrams THC per package.

(b) Notwithstanding subsection (a), a package containing an edible product that is an orally-dissolving product, such as sublingual lozenges or mouth strips, may contain up to 500 milligrams THC per package, if:

(1) The cannabis product consists of discrete servings of no more than 10 milligrams THC per piece;

(2) The cannabis product is labeled “FOR MEDICAL USE ONLY;” and

(3) The cannabis product is only available for sale to a medicinal-use customer.

(c) A topical cannabis product or a cannabis concentrate shall not contain more than 1,000 milligrams THC per package.

(d) Notwithstanding subsection (c), a topical cannabis product or a cannabis concentrate may contain more than 1,000 milligrams THC per package, but not more than 2,000 milligrams THC per package, if the product is labeled “FOR MEDICAL USE ONLY” and is only available for sale to a medicinal-use customer.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26011.5; 26120; and 26130, Business and Professions Code.

Article 3. Failed Product Batches.

§40330. Failed Product Batches.

(a) A finished cannabis product batch that fails any laboratory testing requirement established by the Bureau pursuant to section 26100 of the Act shall be destroyed unless:

(1) The cannabis product batch can be remediated by relabeling pursuant to subsection (d); or

(2) A corrective action plan for remediation or reprocessing is approved by the Department pursuant to subsection (e).

(b) Remediation or reprocessing of a failed product batch or the use of a harvest batch that has failed any laboratory test shall comply with the requirements and procedures established by the Bureau in Section 5727 of Title 16 of the California Code of Regulations, in addition to the requirements of this chapter.

(c) Except as provided in subsection (d), edible cannabis products that fail laboratory testing requirements shall not be remediated or reprocessed and shall be destroyed. If any edible cannabis product that has failed laboratory testing is remediated, reprocessed, or otherwise mixed with another batch of cannabis product, such action shall render the final cannabis product adulterated, regardless of the defect level of the final cannabis product.

(d) A cannabis product batch that fails laboratory testing for cannabinoid or terpenoid content may be remediated by relabeling the product with the correct information from the laboratory certificate of analysis, provided that the THC limits in Section 40315 are met. In addition, the following conditions apply:

(1) The manufacturer licensee shall notify the Department within 3 business days of notification by a distributor that a product failed cannabinoid content testing and is required to be relabeled. Notification shall be given to the Department by email and shall include a copy of the certificate of analysis for the batch and the name and license number of the licensee relabeling the product.

(e) Except as provided in subsection (d), a cannabis product batch or a harvest batch that fails laboratory testing or quality assurance review shall not be remediated or reprocessed unless the Department has approved a corrective action plan submitted by the manufacturer licensee. The corrective action plan shall include, at minimum, a description of how the product or harvest batch will be remediated so that the product or harvest batch, or any product produced therefrom, will meet all laboratory testing and quality assurance requirements. Edible cannabis products may only be remediated by relabeling. Corrective action plans will be reviewed by the Department on a case-by-case basis.

(f) All remediation of harvest or product batches shall be documented in the manufacturing records. Remediated products, harvest batches, or products produced therefrom, shall be tested and undergo quality assurance review in accordance with the

requirements established by the Bureau in Article 7 of Chapter 6 of Division 42 of Title 16 of the California Code of Regulations prior to retail sale.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26131, Business and Professions Code.

SUBCHAPTER 5. LABELING AND PACKAGING REQUIREMENTS

Article 1. General Provisions

§40400. Applicability.

The requirements in this subchapter shall apply to finished cannabis products or dried flower and pre-rolls packaged for retail sale and shall not apply to cannabis or cannabis products that are transferred between licensees for the purpose of further processing or packaging.

Authority: Section 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26130; Business and Professions Code.

§40401. Release to Distributor as Finished Product.

Prior to release of a cannabis product to a distributor, a licensee shall ensure that the product is in finished form and is labeled and packaged in its final form for sale.

Authority: Section 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26130, Business and Professions Code.

Article 2. Labeling Requirements

§40403. General Provisions.

(a) Any information required to be listed on a label shall be written in English.

(b) A label shall be unobstructed and conspicuous so that it can be read by the consumer.

(c) All required label information shall be located on the outside container or wrapper of the finished product to be sold at a retailer. If the container is separable from the outer-most packaging (e.g., a container placed inside of a box), the product container shall include the following:

(1) All of the information specified in Sections 40405 and 40406, for edible cannabis products, topical cannabis products, suppositories, or orally-consumed concentrates.

(2) The universal symbol as prescribed in Section 40412, for inhaled products (e.g., as dab, shatter, and wax).

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26120, Business and Professions Code.

§40404. Labeling Requirements: Pre-Rolls and Packaged Flower.

(a) The label for a package of pre-rolls or packaged flower shall include a primary panel that includes the following information in a type size no less than 6 point font and in relation to the size of the primary panel and container:

(1) Identity of the product;

(2) The net weight of cannabis in the package, listed in both metric and U.S. customary units;

(3) Universal symbol;

(4) The cannabinoid content as specified in Section 40409.

(b) The label for a package of pre-rolls or packaged flower shall include an informational label that includes the following information in a type size no less than 6 point font and in relation to the size of the informational panel and container:

(1) The UID;

(2) The licensed cultivator or licensee packaging the product (either the legal business name or the registered DBA listed on the license certificate), and its contact number or website address;

(3) The date of packaging for retail sale;

(4) The following statement in bold print: “GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

(c) Nothing in this section prohibits the inclusion of additional information on the label, provided that the label does not violate the requirements of Section 40410.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26120, Business and Professions Code.

§40405. Primary Panel Labeling Requirements: Manufactured Products.

(a) The label for a manufactured cannabis product shall include a primary panel that includes the following information in a type size no less than 6 point font and in relation to the size of the primary panel and container:

(1) The identity of the product in a text size reasonably related to the most prominent printed matter on the panel;

(2) The universal symbol as prescribed in Section 40412;

(3) The net weight or volume of the contents of the package, listed in both metric and U.S. customary units;

(4) Cannabinoid content as specified in Section 40409.

(b) Nothing in this section prohibits the inclusion of additional information on the primary panel. The content of other cannabinoids or terpenes may be included if such

information is verified by the certificate of analysis issued by a licensed testing laboratory.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26120, Business and Professions Code.

§40406. Additional Primary Panel Labeling Requirements: Edible Products.

In addition to the requirements of Section 40405, the primary panel of an edible cannabis product shall include the words “cannabis-infused” immediately above the identity of the product in bold type and in a text size larger than the text size used for the product identity.

Authority: Sections 26012; 26013; 26120; and 26130, Business and Professions Code.

Reference: Section 26120, Business and Professions Code.

§40408. Informational Panel Labeling Requirements.

(a) The label for a manufactured cannabis product shall include an informational panel that includes the following:

(1) The licensed manufacturer (either the legal business name or the registered DBA listed on the license certificate) and its contact number or website address;

(2) The date of the cannabis product’s manufacture and packaging;

(3) The following statement in bold print: “GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

(4) The statement “FOR MEDICAL USE ONLY,” if:

(A) The cannabis product is intended by the manufacturer only for sale to medicinal-use customers;

(B) The product is an orally-dissolving edible product containing more than 100 milligrams THC per package, as specified in Section 40315(b); or

(C) The product is a topical cannabis product or a orally-consumed concentrate containing more than 1,000 milligrams THC per package, as specified in Section 40135(d).

(5) A list of all product ingredients in descending order of predominance by weight or volume. If any product ingredient contains subingredients, the list shall either:

(A) Include the common name of the ingredient followed by a parenthetical listing of all ingredients in descending order by weight or volume; or

(B) List all subingredients as individual ingredients in descending order of predominance.

(6) If the cannabis product contains an ingredient, flavoring, coloring, or an incidental additive that bears or contains a major food allergen, the word “contains,” followed by a list of the applicable major food allergens;

(7) The names of any artificial colorings contained in the product;

(8) If an edible cannabis product, the amount, in grams or milligrams, of sodium, sugar, carbohydrates, and total fat per serving;

(9) Instructions for use, such as the method of consumption or application, and any preparation necessary prior to use;

(10) The product expiration date, “use by” date, or “best by” date, if any;

(11) The UID and, if used, the batch or lot number; and

(12) If the cannabis product is perishable or is perishable after opening, the statement, “KEEP REFRIGERATED” or “REFRIGERATE AFTER OPENING,” as applicable.

(b) The informational panel text shall be in a text size of no less than 6 point font and in relation to the size of the primary panel and container.

(c) The requirements of subsection (a) can be fulfilled through the use of supplemental labeling, which can include, but is not limited to, a package insert, fold-out or booklet label, or a hanging tag.

(d) Nothing in this section prohibits the inclusion of additional information on the informational panel. The content of other cannabinoids or terpenes may be included if the information is verified by the certificate of analysis issued by a licensed testing laboratory.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26120; and 26121, Business and Professions Code.

40409. Cannabinoid Content Labeling.

(a) Each package of cannabis product shall be labeled with the following pharmacologically active ingredients, as follows:

(1) THC Content:

(A) For an edible product, and a cannabis concentrate for which the manufacturer has established serving designations, THC content shall be expressed in milligrams per serving and milligrams per package.

(B) For a topical cannabis product and a cannabis concentrate without serving designations, THC content shall be expressed in milligrams per package.

(2) CBD Content:

(A) For an edible product, and a cannabis concentrate for which the manufacturer has established serving designations, CBD content shall be expressed in milligrams per serving and milligrams per package.

(B) For a topical cannabis product and a cannabis concentrate without serving designations, CBD content shall be expressed in milligrams per package.

(b) If the THC or CBD concentration is less than two (2) milligrams per serving or per package, the THC or CBD may be labeled as “<2 mg per serving” or “2 mg per package”.

(c) Packages of pre-rolls or cannabis flower that do not include cannabinoids other than that naturally occurring in the plant material are not required to list cannabinoid content in milligrams. Instead, such packages may be labeled with the cannabinoid content expressed as a percentage.

(d) Infused pre-rolls shall be labeled with either:

- (1) The cannabinoid content in milligrams; or
- (2) The cannabinoid content of the dried flower expressed as a percentage and the added cannabinoid content in milligrams.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26120, Business and Professions Code.

§40410. Labeling Restrictions.

Cannabis product labeling shall not contain any of the following:

(a) The name of a California county, including any similar name that is likely to mislead consumers as to the origin of the product, unless 100% of the cannabis used in the product was grown in that county.

(b) Content that is, or is designed to be, attractive to individuals under the age of 21, including but not limited to:

(1) Cartoons;

(2) Any likeness to images, characters, or phrases that are popularly used to advertise to children;

(3) Any imitation of candy packaging or labeling; or

(4) The terms “candy” or “candies” or variants in spelling such as “kandy” or “kandeez.”

(c) Any information that is false or misleading.

(d) Any health-related statement that is untrue or misleading. Any health-related statement must be supported by the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), and for which there is significant scientific agreement among experts qualified by scientific training and experience to evaluate such claims.

(e) If the product is an edible product, a picture of the product contained therein.

(f) For purposes of this section, false or misleading information includes any indication that the cannabis or cannabis product is organic, unless the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C.

Section 6501 et seq.)) authorizes organic designation and certification for cannabis and the cannabis or cannabis product meets the requirements for such designation and certification. This includes use of the word “organic” on the labeling or variants in spelling such as “organix.”

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26062.5; 26120; 26121; and 26154, Business and Professions Code.

§40411. Statement of Characteristic Anticipated Effects.

A cannabis product may include information on the characteristic anticipated effects of the cannabis product if the manufacturer has substantiation that the information is truthful and not misleading. Such information may be located on the informational panel of the label or as an insert included in the product package. For purposes of this section, “characteristic anticipated effect” includes any physiological effect (a temporary effect on the body related to the consumption of cannabis) that is common to or expected from the particular cannabis strain, but excludes any claim of health benefits (i.e. claims of therapeutic action as a result of the consumption of cannabis).

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26120; and 26130, Business and Professions Code.

§40412. Universal Symbol.

The primary panel of a cannabis product shall be marked, stamped, or otherwise imprinted with the universal symbol.

(a) The symbol shall replicate the following in form:



(b) The symbol shall be black in color. For packaging that is dark in color, the symbol may be made conspicuous by printing the symbol on, or outlining the symbol with, a contrasting color.

(c) The symbol shall be no smaller in size than half (.5) inch by half (.5) inch and shall be printed legibly and conspicuously.

(d) The symbol shall not be altered or cropped in any way other than to adjust the sizing for placement on the primary panel.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26120; 26121; and 26130, Business and Professions Code.

Article 3. Packaging Requirements

§40415. Packaging.

A package used to contain a cannabis product shall comply with the following requirements:

(a) The package shall protect the product from contamination and shall not expose the product to any toxic or harmful substance.

(b) The package shall be tamper-evident, which means that the product packaging is sealed so that the contents cannot be opened without obvious destruction of the seal.

(c) If the product has multiple uses, it shall be resealable.

(d) The package shall not imitate any package used for products typically marketed to children.

(e) If the product is an edible product, the package shall be opaque. Amber bottles shall be considered opaque for purposes of this section.

(f) Notwithstanding subsection (e), opaque bottles used to contain a cannabis beverage product may utilize a single, vertical, clear strip of no wider than 0.25 inches for the purpose of determining serving amounts.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26120; and 26121, Business and Professions Code.

SUBCHAPTER 6. COMPLIANCE

Article 1. Records

§40500. Record Keeping Requirements.

(a) The licensee shall maintain the following documents on the premises at all times and shall make the documents available to the Department upon request:

(1) The valid state license issued by the Department, which shall be prominently displayed;

(2) Any other valid license issued by a state cannabis licensing agency;

(3) The valid license, permit, or other approval issued by the local jurisdiction;

(4) The premises diagram, as specified in Section 40105;

(5) The current standard operating procedures as defined in Section 40275;

(6) Shipping manifests;

(7) Personnel records, including evidence of personnel qualifications and training procedures and logs, as specified in Section 40280;

(8) Contracts with other licensees regarding commercial cannabis activity;

(9) Financial records related to the commercial cannabis activity including, but not limited to, bank statements, tax records, sales invoices, and sales receipts;

(10) Sales invoices and receipts as described in section 26161 of the Act and Section 40505 of these regulations; and

(11) Any other record or documentation required to be kept pursuant to this Chapter or the Act.

(b) The records shall be maintained for a period of seven (7) years. Outdated standard operating procedures shall be maintained such that onsite employees cannot mistakenly access outdated information.

(c) All documentation shall be maintained in English. However, nothing in this subsection prohibits the maintenance of documents in languages in addition to English as needed by the licensee.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26011.5; and 26160, Business and Professions Code.

§40505. Sales Invoices and Receipts.

(a) The licensee shall prepare a sales invoice or sales receipt for every sale, transport, or transfer of cannabis product to another licensee. Sales invoices and receipts may be maintained electronically, but shall be readily accessible for examination by the Department and its inspectors and agents.

(b) Each sales invoice or receipt shall include the following information:

(1) Name, address, and license number of the seller;

(2) Name, address, and license number of the purchaser;

(3) Date of sale, transport, or transfer;

(4) Invoice or receipt number;

(5) Kind, quantity, size, and capacity of packages of cannabis or cannabis product sold, transported, or transferred;

(6) Cost to the purchaser for the cannabis or cannabis product, including any discount or trade allowance applied to the price, which shall be recorded on the invoice;

(c) For purposes of this section, “discount or trade allowance” means any price reduction or allowance of any kind, whether stated or unstated, and includes, without limitation, any price reduction applied to a licensee’s price list. The discounts may be for prompt payment, payment in cash, bulk purchases, related-party transaction, or “preferred-customer” status.

(d) Invoices and receipts for the sale, transport, or transfer of cannabis or cannabis products shall not be comingled with invoices covering other commodities.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26161, Business and Professions Code.

Article 2. Track-and-Trace System

§40510. Track-and-Trace System General Requirements.

(a) Each applicant or licensee shall identify an owner of the commercial cannabis business to be the track-and-trace system account manager. The account manager shall register for track-and-trace system training provided by the Department of Food and Agriculture or its designee within ten (10) business days of receiving notice from the Department of Public Health that their application for licensure has been received.

(b) Applicants approved for an annual license shall not have access to the track-and-trace system until the account manager has completed the track-and-trace training prescribed by the Department of Food and Agriculture or its designee and proof of completion has been validated by Department of Food and Agriculture or its designee.

(c) The licensee's track -and-trace system account manager shall be responsible for all the following:

(1) Complete track-and-trace system training provided by the Department of Food and Agriculture or its designee. If the account manager did not complete the track-and-trace system training prior to the licensee receiving their annual license, the account manager will be required to register for the track-and-trace system training provided by the Department of Food and Agriculture or its designee within five (5) business days of license issuance;

(2) Designate track-and-trace system users, as needed, and require the designated users to be trained in the proper and lawful use of the track-and-trace system before the users are permitted to access the track-and-trace system;

(3) Maintain an accurate and complete list of all track-and-trace system designated users and update the list immediately when changes occur;

(4) Cancel any track-and-trace designated users from the licensee's track-and-trace system account if that individual is no longer authorized to represent the licensee;

(5) Correct any data that is entered into the track-and-trace system in error within three (3) business days of discovery of the error;

(6) Obtain UID tags from the Department of Food and Agriculture, or its designee, and ensure that a sufficient supply of UIDs is available at all times;

(7) Ensure that all inventory is tagged and entered in the track-and-trace system as required by Section 40512 and 40517; and

(8) Monitor all notifications from the track-and-trace system and resolve all issues identified in the notification. The notification shall not be dismissed by an account manager until the issue(s) identified in the notification has been resolved.

(d) The applicant or licensee is responsible for notifying the Department in writing of any change to the designated track and trace system account manager within forty-eight hours.

(e) The licensee is responsible for all actions its owners or employees take while logged into the track-and-trace system, or are otherwise performing track-and-trace activities.

(f) No person shall intentionally misrepresent or falsify information entered into the track-and-trace system. The track-and-trace system shall be the system of record. The licensee is responsible for the accuracy and completeness of all data and information entered into the track-and-trace system. Information entered into the track-and-trace system shall be assumed to be accurate and may be used to take enforcement action against the licensee if incorrect information is not corrected.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26067; and 26160, Business and Professions Code

§40512. Track-and-Trace System Reporting Requirements.

(a) A system account manager or designated user shall record all of the following activities in the track-and-trace system within 24 hours of the activity:

(1) Receipt of cannabis material;

(2) The transfer to or receipt of cannabis products for further manufacturing from another licensed manufacturer; and

(3) All changes in the disposition of cannabis or cannabis products. A change in disposition includes, but is not limited to:

(A) Processing of the cannabis or further processing of the cannabis product; and

(B) Packaging and labeling of the cannabis products or repackaging or relabeling of the cannabis products.

(4) Use of cannabis or cannabis product for internal quality control testing or product research and development.

(5) Transfer of cannabis products to a distributor.

(b) The following information shall be recorded for each activity entered into the track-and-trace system:

(1) The licensed entity from which the cannabis material or product is received, including that entity's license number, and the licensed entity to which the cannabis product is transferred, including that entity's license number;

(2) The name and license number of the distributor that transported the cannabis material or cannabis product;

(3) The type of cannabis material or cannabis product received, processed, manufactured, packaged, or transferred;

(4) The weight or count of the cannabis material or cannabis product received, processed, manufactured, packaged, or transferred;

(5) The date and time of receipt, processing, manufacturing, packaging, or transfer;

(6) The UID assigned to the cannabis material or cannabis product;

(7) Any other information required by other relevant licensing authorities.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26067; and 26160, Business and Professions Code

§40513. Track-and-Trace System – Loss of Access.

(a) If a licensee loses access to the track-and-trace system for any reason, the licensee shall prepare and maintain comprehensive records detailing all required inventory tracking activities conducted during the loss of access.

(b) Upon restoration of access to the track-and-trace system, all inventory tracking activities that occurred during the loss of access shall be entered into the track-and-trace system within three (3) business days.

(c) A licensee shall document the date and time when access to the track-and-trace system was lost and when it was restored and the cause for each loss of access.

(d) A licensee shall not transfer cannabis products to another licensee or receive cannabis or cannabis products from another licensee until such time as access to the track-and-trace system is restored and all information is recorded into the track-and-trace system.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26067; and 26160, Business and Professions Code

§40515. Track-and-Trace System – Temporary Licenses.

(a) A licensee operating under a temporary license issued pursuant to Section 40126 is not required to record commercial cannabis activity in the track-and-trace system as otherwise required by this article. Temporary licensees shall track all commercial cannabis activities on a paper sales receipt or invoice that includes the following information:

- (1) Name, address, and license number of the seller;
- (2) Name, address, and license number of the purchaser,
- (3) Date of sale or transfer and invoice number;
- (4) Description or type of cannabis or cannabis product;
- (5) Weight or count of the cannabis or cannabis product sold or transferred;
- (6) Cost to the purchaser of the cannabis or cannabis product.

(b) After issuance of an annual license, the licensee may continue to conduct commercial cannabis activities with temporary licensees in accordance with subsection (a). Any commercial cannabis activity conducted between annual license holders shall be recorded in the track-and-trace system.

(c) The provisions of this section shall expire on July 1, 2019.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26067; 26160; and 26161, Business and Professions Code.

§40517. Track-and-Trace System – UID Tag Order.

(a) A licensee shall order UID tags within five (5) business days of receiving access to the track-and-trace system. The receipt of the UID tags by the licensee shall be recorded in the track-and-trace system within three (3) business days of receipt.

(b) Any licensee in operation at the time access to the track-and-trace system is granted shall input all inventory into the track-and-trace system no later than 30 calendar days after receipt of the UID tags. After UID tags have been received, all commercial cannabis activity shall be recorded in the track-and-trace system by the licensee as required by this Article.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Sections 26067; 26160; and 26161, Business and Professions Code.

Article 3. Advertising and Marketing

§40525. Advertising and Marketing.

(a) A licensee shall ensure that all advertising and marketing of its cannabis products meet the requirements of Chapter 15 (commencing with section 26150) of the Act. Any health-related statement shall also meet the requirements of Section 40410.

(b) A licensee shall accurately and legibly include its name and license number on all advertising and marketing for its products.

(c) A licensee shall maintain records and documentation to establish that its advertising and marketing meet the requirements of Chapter 15 (commencing with section 26150) of the Act. The records shall be maintained in accordance with section 26160 of the Act and Section 40500 of this chapter.

(d) A licensee shall remove or discontinue advertising or marketing if the Department determines it violates the provisions of the Act or these regulations or if the licensee fails to provide records to the Department upon request that establishes the advertising and marketing meets the requirements of the Act and regulations.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.

Reference: Section 26150, Business and Professions Code.

Article 4. Inspections

§40550. Inspections.

(a) The Department and its inspectors or agents may conduct an on-site inspection prior to issuing a new or renewal license, and as deemed necessary by the Department.

(b) The Department and its inspectors or agents shall have access at reasonable times to the manufacturing premises, storage areas, records, production processes, labeling and packaging processes, and conveyances used in the manufacture, storage or transportation of cannabis products so that it may determine compliance with the provisions of the Act and these regulations. Departmental inspections may include, but are limited to, all pertinent equipment, raw material, finished and unfinished materials, containers, packaging, and labeling that has a bearing on whether the cannabis product complies with the Act and these regulations.

(c) The Department may inspect any record or document that has a bearing on whether the labeling, advertising or marketing of a cannabis product complies with the requirements of Chapter 15 (commencing with section 26150) of the Act.

(d) To the extent necessary for the enforcement of the Act and this chapter, the Department may secure any sample or specimen of any cannabis product or ingredient used therein by the manufacturing operation. The Department's inspector or agent shall leave a receipt for the licensee describing any sample obtained prior to leaving the premises.

(e) The Department may analyze or examine any sample obtained. If an analysis is made of a sample, a copy of the results of the analysis shall be furnished to the licensee by the Department.

(f) The Department may conduct investigations concerning the adulteration, misbranding, false or misleading advertising or marketing, or unlicensed production of any cannabis product, and may enter and inspect any place where any cannabis product is suspected of being manufactured or held in violation of the Act or these regulations.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.
Reference: Sections 26011.5; 26130; 26132; 26133; 26134; 26135; and 26160, Business and Professions Code.

§40551. Notice to Comply.

(a) The Department may issue a notice to comply to a licensee for violation(s) of the Act or regulations observed during an inspection.

(b) The notice to comply shall be in writing and describe the nature and facts of each violation, including a reference to the statute or regulation violated.

(c) The Department may serve the notice to comply prior to leaving the licensed premises on an owner, manager or other individual on the premises designated by the licensee to accept the notice, or may mail the notice to comply to the licensee within 15 calendar days of the last date of inspection.

(d) The department shall specify a reasonable timeframe in the notice to comply for the licensee to correct the violation(s). Within the specified timeframe, the licensee shall notify the department of the corrective action(s) taken for each violation and describe how compliance was achieved. The Department may require the licensee to provide a corrective action plan for review and approval by the Department.

(e) Failure to correct the violation(s) in the notice to comply may result in a disciplinary action or additional enforcement action by the Department.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code.
Reference: Sections 26011.5; 26130; 26132; 26133; 26134; 26135; and 26160, Business and Professions Code.

Article 5. Suspensions and Revocations of a License.

§40570. Emergency Decision and Order.

(a) The Department may issue an emergency decision and order for temporary, interim relief to prevent or avoid immediate danger to the public health, safety, or welfare. Such circumstances include, but are not limited to, the following:

(1) The Department determines that a cannabis product manufactured, processed, packed, or held at the licensee's premises has a reasonable probability of causing serious adverse health consequences or death.

(2) The Department determines that insanitary or other conditions at the licensee's premises exist that could lead to the adulteration of finished cannabis products, and has a reasonable probability of affecting the safety of finished cannabis products.

(3) The Department observes or has information that conditions at the licensee's premises exist that present an immediate risk to worker or public health and safety.

(4) To prevent illegal diversion of cannabis or cannabis products, or other criminal activity at the licensee's premises.

(5) To prevent the destruction of evidence related to illegal activity or violations of the Act.

(b) Temporary, interim relief may include one or more of the following:

(1) The temporary suspension of a license.

(2) An order to segregate or isolate specified cannabis products.

(3) An order prohibiting the movement of cannabis products from the premises or the receipt of cannabis or cannabis products at the premises.

(4) An order to cease some or all manufacturing operations at the premises.

(5) An order prohibiting the sale of specified cannabis products.

(6) An order for the recall of cannabis products.

(c) The emergency decision and order issued by the Department shall include a brief explanation of the factual and legal basis for the emergency decision that justify the Department's determination that emergency action is necessary and the specific actions ordered. The emergency decision and order shall be effective when issued or as otherwise provided by the decision and order.

(d) The emergency decision and order for temporary, interim relief shall be issued in accordance with the following procedures:

(1) The Department shall give notice of the emergency decision and order and an opportunity to be heard to the licensee prior to the issuance, or effective date, of the emergency decision and order, if practicable.

(2) Notice and hearing under this section may be oral or written and may be provided by telephone, personal service, mail, facsimile transmission, electronic mail, or other electronic means, as the circumstances permit.

(3) Notice may be given to the licensee, any person meeting the definition of owner for the licensee, or to the manager or other personnel at the licensee's premises.

(4) Upon receipt of the notice, the licensee may request a hearing within three (3) business days by submitting a written request for hearing to the Department through electronic mail, facsimile transmission, or other written means. The hearing shall commence within five (5) business days of the Department's receipt of the written request for hearing, unless a later time is agreed upon by the Department and the licensee.

(5) The hearing shall be in the nature of an informal conference before the Department's Director or his or her designee, and shall permit the licensee and Department personnel to offer written or oral evidence and comments on the issues. The hearing does not require the opportunity for pre-hearing discovery or cross-examination of witnesses.

(6) Following the hearing, the emergency decision and order shall be affirmed, modified, or set aside as determined appropriate by the Department within five (5) business days of the hearing.

(e) Within ten (10) days of the issuance or effective date of the emergency decision and order for temporary, interim relief, the Department shall commence adjudicative proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code to resolve the underlying issues giving rise to the temporary, interim relief, notwithstanding the pendency of proceedings for judicial review of the emergency decision as provided in subsection (g).

(f) After formal proceedings pursuant to subsection (e) of this section are held, a licensee aggrieved by a final decision of the Department may appeal the decision to the Cannabis Control Appeals Panel pursuant to section 26043 of the Act.

(g) Notwithstanding administrative proceedings commenced pursuant to subsection (e), the licensee may obtain judicial review of the emergency decision and order pursuant to section 1094.5 of the Code of Civil Procedure in the manner provided in

section 11460.80 of the Government Code without exhaustion of administrative remedies.

(h) The Department's authority in this section is in addition to, and does not preclude the exercise of, the Department's authority governing the recall of cannabis products in section 26132 of the Act and its authority to embargo cannabis products in section 26133 of the Act. The authority provided by this section may be used in addition to any civil, criminal, or other administrative remedies available to the Department.

Authority: Sections 26012; 26013; and 26130, Business and Professions Code; and Section 11460.30, Government Code.

Reference: Sections 26011.5; 26013; 26131; and 26132, Business and Professions Code; and Sections 11460.10; 11460.20; 11460.30; 11460.40; 11460.50; 11460.60; 11460.70; and 11460.80, Government Code.

SUMMARY OF PROPOSED CHANGES

REGULATIONS FOR CANNABIS MANUFACTURING

The California Department of Public Health (CDPH) published proposed regulations on July 13, 2018, the first step in the formal rulemaking process. The proposed rules are similar to the emergency regulations currently in effect, but contain some changes and clarifications made in response to questions and feedback from the public.

Summary of Changes in the Proposed Regulations

Product Classifications

Provides clarification about which products are classified as edibles and which are classified as concentrates. Specifies that orally-dissolving cannabis products (such as solid sublinguals, lozenges and mouth strips) are classified as edibles. Defines “tablets” as concentrates intended to be swallowed whole and that contain no added flavorings or sweeteners.

THC Limits

Allows orally-dissolving edibles intended for sale only in the medicinal market to contain up to 500 milligrams of THC per package, provided that these products contain no more than 10 mg THC per serving as required by statute and are marked “MEDICAL USE ONLY.”

Child-Resistant Packaging

Allows statutory requirements for child-resistant packaging to be fulfilled using exit packaging at retail, rather than individual product packaging.

Labeling of Flower

Clarifies and establishes basic labeling requirements for flower. Permits flower to be labeled with percentages of cannabinoid content, rather than milligrams.

Labeling of Trace Amounts of THC and CBD

Permits products with trace amounts of THC or CBD to be labeled “<2 mg.”

Labeling of Multi-Layered Product Packaging

Establishes labeling requirements for inner layers of packaging when the container of a cannabis product can be separated from the outer layer of packaging.

Shared-Use Facilities

Increases the maximum gross annual revenue under which a business can hold a Type S license from \$500,000 to \$1 million.

Labor Law Violations

Requires disclosure of violations of labor standards during the application process and if a violation occurs during the license period

Temporary Licenses

Clarifies that no new temporary licenses will be issued on or after January 1, 2019, and temporary licenses with expiration dates after December 31, 2019, will be valid until they expire.

To view the proposed regulations or learn more about the rulemaking process, visit www.cdph.ca.gov/mcsb/rulemaking.

EXHIBIT E

DPH-17-013E

Cannabis Regulations for CEQA Compliance and Shared-Use Facilities

Title 17. Public Health
Division 1. State Department of Health Services
Chapter 13. Manufactured Cannabis Safety
Subchapter 2. Manufactured Licenses
Article 1. Applications for Licensure

§40127. Temporary Shared-Use Facility Registration; Temporary Licenses: Type S.

(a) To register a manufacturing premises as a shared-use facility as defined in Section 40190, an applicant shall submit to the Department the following:

(1) Form CDPH-9037 (03/18), which is hereby incorporated by reference;

(2) A copy of the valid license, permit, or other authorization issued by the local jurisdiction that enables the applicant to operate as a shared-use facility. Upon receipt of the registration application, the Department shall contact the applicable local jurisdiction to confirm the validity of the authorization. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.

(b) To request a temporary Type S license, an applicant shall submit to the Department the following:

(1) Form CDPH-9038 (03/18), which is hereby incorporated by reference;

(2) A copy of the valid license, permit, or other authorization issued by the local jurisdiction that enables the applicant to conduct commercial cannabis activity. Upon receipt of the license application, the Department shall contact the applicable local jurisdiction to confirm the validity of the authorization. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid;

(3) The license number and address of the shared-use facility at which the applicant will conduct manufacturing operations; and

(4) The days and hours in which the applicant will conduct manufacturing operations.

(c) Temporary licenses and registrations issued pursuant to this section shall be subject to the terms and conditions of subsections (b), (c), (d), (e), and (f) of Section 40126.

Authority: Sections 26012, 26013 and 26130, Business and Professions Code. Reference: Section 26050.1, Business and Professions Code.

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§40132. Annual License Application Requirements - Compliance with CEQA.

(a) An applicant for a new license shall provide evidence of exemption from or compliance with Division 13 (commencing with section 21000) of the Public Resources Code, California Environmental Quality Act (CEQA).

(b) The evidence provided pursuant to subsection (a) shall be one of the following:

(1) If the premises is located in a local jurisdiction that has adopted an ordinance, rule, or regulation pursuant to Business and Professions Code section 26055(h), a copy of the local license, permit, or other authorization shall be sufficient to demonstrate compliance.

(2) If the applicant does not provide a copy of the local license, permit, or other authorization pursuant to subsection (b)(1), or if the premises is located in a local jurisdiction that has not adopted an ordinance, rule, or regulation pursuant to Business and Professions Code section 26055(h), a copy of the Notice of Exemption or Notice of Determination and a copy of the CEQA document from the local jurisdiction, or a reference to where it can be found electronically shall be required to demonstrate compliance.

(3) Any other permit or local authorization issued by the local jurisdiction that indicates compliance with CEQA.

(c) If an applicant does not have the evidence specified in subsection (b), or if the local jurisdiction did not prepare a CEQA document, the applicant shall be responsible for the preparation of an environmental document in compliance with CEQA that can be approved or certified by the Department, if applicable.

Authority: Sections 26012, 26013 and 26130, Business and Professions Code. Reference: Section 26055, Business and Professions Code.

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Article 6. Shared-Use Facilities

§40190. Definitions.

For purposes of this Article, the following definitions shall apply:

(a) "Common-use area" means any area of the manufacturer's registered shared-use facility, including equipment that is available for use by more than one licensee, provided that the use of a common-use area is limited to one licensee at a time.

(b) "Designated area" means the area of the manufacturer's registered shared-use facility that is designated by the primary licensee for the sole and exclusive use of a Type S licensee, including storage of the Type S licensee's cannabis, cannabis concentrates, and cannabis products.

(c) "Primary licensee" means the Type 7, Type 6, or Type N licensee that has registered and been approved to operate a shared-use facility.

(d) "Shared-use facility" means a manufacturing premises operated by a Type 7, Type 6, or Type N licensee in which Type S licensees are authorized to conduct manufacturing operations.

(e) "Type S" is a license that allows the licensee to conduct manufacturing operations at a shared-use facility.

(f) "Use agreement" means a written agreement between a primary licensee and a Type S applicant or licensee that specifies the designated area of the Type S licensee, the days and hours in which the Type S licensee is assigned to use the common-use area, any allocation of responsibility for compliance pursuant to Section 40196, and an acknowledgement that the Type S licensee has sole and exclusive use of the common-use area during the Type S licensee's assigned time period.

Authority: Sections 26012, 26013 and 26130, Business and Professions

Code. Reference: Sections 26001, 26050, 26051.5 and 26130, Business and Professions Code.

§40191. Type S License.

(a) Applications for a Type S license shall:

(1) Be submitted in accordance with Section 40128, except that the nonrefundable application processing fee shall be \$500 for each new application submitted;

(2) Include the license number and address of the registered shared-use facility at which the applicant will conduct manufacturing operations;

(3) Include a copy of the use agreement signed by both the applicant and the primary licensee; and

(4) On the premises diagram submitted pursuant to Section 40131(i), indicate the designated area to be used by the Type S applicant and detail where the applicant will store its cannabis, cannabis concentrates, and cannabis products.

(b) A Type S license shall only be available to applicants within Tier I or Tier II fee categories, as defined in Section 40150.

(c) A Type S licensee may conduct the following operational activities:

(1) Infusions, as defined in Section 40100(cc);

(2) Packaging and labeling of cannabis products; and

(3) Extractions with butter or food-grade oils, provided that the resulting extract or concentrate shall be used solely in the manufacture of the Type S licensee's infused product, and shall not be sold to any other licensee.

Authority: Sections 26012, 26013 and 26130, Business and Professions

Code. Reference: Sections 26050, 26051.5, 26130 and 26180, Business and Professions Code.

§40192. Registration to Operate a Shared-Use Facility.

(a) No licensee shall operate as a shared-use facility without prior approval by the Department.

(b) To register as a shared-use facility, a Type 7, Type 6, or Type N licensee shall submit the following to the Department through the online licensing system available on the Department's website:

Cannabis Regulations for CEQA Compliance and Shared-Use Facilities

(1) A copy of the valid license, permit, or other authorization issued by the local jurisdiction that enables the licensee to operate as a shared-use facility. Upon receipt of the registration, the Department shall contact the applicable local jurisdiction to confirm the validity of the authorization. If the local jurisdiction does not respond within 10 calendar days, the Department shall consider the authorization valid.

(2) A registration form prescribed by the Department, which includes the following information:

(A) The proposed occupancy schedule that specifies the days and hours the common-use area will be available for use by Type S licensees and when the common-use area will be used by the primary licensee. The occupancy schedule shall allow for adequate maintenance and sanitizing between uses by individual licensees.

(B) A diagram indicating:

(i) Each designated area for Type S licensee(s).

(ii) The common-use area, including identification of any shared equipment.

(c) The Department shall notify the Type 7, Type 6, or Type N licensee upon approval of the registration to operate as a shared-use facility. Notification shall be made through the Department's online licensing system available on the Department's website.

(d) At least one business day prior to a Type S licensee commencing manufacturing operations at a registered shared-use facility, the primary licensee shall provide written notification to the Department. The notification to the Department shall include the Type S licensee's business name, contact person, contact phone number, and license number. The primary licensee shall also provide an updated occupancy schedule that includes the Type S licensee and an updated diagram that specifies the Type S licensee's designated area. Notification shall be provided by email or through the Department's online licensing system available on the Department's website.

(e) A primary licensee that wishes to discontinue operation as a shared-use facility may cancel its registration by providing written notice to the Department and each Type S licensee authorized to use the shared-use facility at least 30 days prior to the effective date of the cancellation.

Cannabis Regulations for CEQA Compliance and Shared-Use Facilities

Authority: Sections 26012, 26013 and 26130, Business and Professions

Code. Reference: Sections 26051.5, 26055 and 26130, Business and Professions Code.

§40194. Shared-Use Facility Conditions for Operation.

(a) A primary licensee shall operate the shared-use facility in accordance with the conditions of operation specified in this section.

(b) Each Type S licensee shall be assigned a “designated area” that, at minimum:

(1) Is for exclusive use by the Type S licensee;

(2) Provides an area for storage that is secure, fixed in place, locked with a commercial-grade lock, and accessible only to the Type S licensee for storage of that Type S licensee’s cannabis, cannabis concentrates, and cannabis products.

(c) Any part of the premises used for manufacturing activities that is a common-use area shall be occupied by only one licensee at a time by restricting the time period that each licensee may use the common-use area. During the assigned time period, one licensee shall have sole and exclusive occupancy of the common-use area.

(d) The use of the shared-use facility shall be restricted to the primary licensee and the Type S licensees authorized by the Department to use the shared-use facility.

(e) Any cannabis product or other materials remaining after a Type S licensee ceases operation and discontinues use of its designated area shall be considered cannabis waste and disposed of by the primary licensee consistent with the requirements of the Act and regulations.

(f) The shared-use facility shall meet all applicable requirements of the Act and regulations.

(g) The occupancy schedule shall be prominently posted near the entrance to the shared-use facility.

(h) The primary licensee may conduct manufacturing activities as permitted under its Type 7, Type 6, or Type N license and may use the common-use area during its scheduled time period.

Cannabis Regulations for CEQA Compliance and Shared-Use Facilities

Authority: Sections 26012, 26013 and 26130, Business and Professions

Code. Reference: Sections 26011.5 and 26130, Business and Professions Code.

§40196. Shared-Use Facility Compliance Requirements.

(a) As part of the use agreement, the primary licensee and Type S licensee(s) may allocate responsibility for providing and maintaining commonly used equipment and services, including, but not limited to security systems, fire monitoring and protection services, and waste disposal service. However, such agreement is not binding on the Department and the Department may take enforcement action against either the primary licensee or Type S licensee(s), regardless of the allocation of responsibility in the use agreement.

(b) A primary licensee or a Type S licensee is liable for any violation found at the shared-use facility during that licensee's scheduled occupancy or within that licensee's designated area. However, a violation of any provision of the Act or regulations may be deemed a violation for which each Type S licensee and the primary licensee are responsible. In the event of a recall or embargo of a cannabis product produced at a shared-use facility, the Department, in its sole discretion, may include any or all cannabis products produced at the shared-use facility.

(c) The occupancy schedule and designated area for a Type S licensee shall not be altered without prior notification to the Department. Prior to making any changes to the occupancy schedule or the designated area, written notification shall be submitted to the Department that includes the intended changes. Notification shall be submitted by email or through the Department's online licensing system available on the Department's website.

Authority: Sections 26012, 26013 and 26130, Business and Professions

Code. Reference: Sections 26011.5, 26055 and 26130, Business and Professions Code.