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# COUNTY OF MENDOCINO
## BOARD OF SUPERVISORS

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**SUBJECT: COMMENTS ON PROPOSED REGULATIONS FOR CANNABIS**

Dear Chief Ajax, Director Parrott and Director Smith:

Mendocino County would like to thank the Bureau of Cannabis Control (BCC), California Department of Food and Agriculture (CDFA) and the California Department of Public Health (CDPH) for their work in releasing their Proposed Regulations for Cannabis on July 13, 2018. These regulations represent an important step in ensuring effective oversight, administration and compliance of the cannabis licensing program.

Mendocino County is a pre-eminent producer county in the state of California, home to a very large number of multi-generational cultivators, manufacturers, and other added-value cannabis industry participants. In every license category, consideration must be given to the difficulties facing small cannabis operators in rural communities, unable to compete in the emerging legal market if it demands large sums of investment to scale up and meet regulatory requirements.

The authority for this regulatory consideration lies in the passage of SB 94 and its incorporated terms in California Business & Professions Code Section 26013 (c). This very important section frames our input to the current Emergency Cannabis Regulations. It requires that MUACRSA "mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent business person."

Mendocino County has developed Cannabis Working Groups consisting of industry leaders in cannabis and engaged community members. The State Requirements Working Group worked collaboratively with the County to develop recommendations on the proposed regulations. With these considerations in mind, Mendocino County Board of Supervisors respectfully submits the following recommendations to the Regulations of the CDFA, BCC and CDPH for consideration.

**Local Authorization**
CDFA, BCC and CDPH proposed regulations, include requirements that upon receipt of an application the licensing authority 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 licensing authority shall consider the authorization valid. Local authorization is important to ensure that applicants are compliant with local regulations and are eligible for a state license. Local regulations are complex and require the involvement of multiple County departments and local districts. In addition, local jurisdictions are receiving large volumes of applicants across all state license types. A response time of 10 calendar days is not sufficient to respond with verification of a permitted/licensed business or a local authorization for individuals in the process of becoming compliant with local requirements. **For these reasons, we request local jurisdictions be given 30 calendar days to respond to the licensing authority.**

**California Department of Food and Agriculture**
**Issues:** Removal of cap on total cultivation acreage per licensee, as contemplated by Prop 64.

As regulations are finalized and the state issues its first annual licenses, implementing a cap on total cultivation acreage continues to be both a practical and legal necessity.

One of Proposition 64's expressly stated purposes is to "ensure the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale cultivation licenses for the first five years."

Specifically, the statute reads:

"26061(c): No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023."

Despite the language and intent of Prop 64, CDFA has so far failed to implement the will of the voters. By allowing single businesses to stack unlimited numbers of "small" licenses, individual licensees have been able to accumulate as many as fifty acres of total cultivation area. As of August 6, the top 1% largest cultivation licensees - those growing over four acres - accounted for nearly a quarter of total licensed cultivation acreage. The 8% of licensees growing more than one acre accounted for nearly half of total licensed cultivation acreage. This imbalance has also increased rapidly over time: as of May 25, licensees growing over four acres accounted for 15% of licensed cultivation area, and licensees growing over one acre accounted for 37% of licensed cultivation area. Those proportions have now increased to 24% and 45%, respectively.

An acreage cap is necessary to implement key protections required by law. Although 26061(d) prohibits large farms from holding distribution licenses, CDFA regulations allow mega-farms to be fully vertically integrated. The combination of unlimited cultivation area and full vertical integration threatens to allow a few consolidated businesses to shut out the small and medium sized businesses that Prop 64 was intended to protect.

The implementation of 26061(c) and (d) is critical to the success of the regulated market in California and was a key piece of Proposition 64. These regulations must be changed to implement the will of the voters and protect the integrity of the regulated market.

**Issue**: Limitations on definition of "Premises" negatively impact rural and small cultivators disproportionately. Please note that each Issue Heading may contain multiple Problems/Solutions and while some Problems and Solutions look similar, each section addresses slightly different problems and solutions.

Code Sections:
§ 8000 (z) "Premises" means the designated structure or structures 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 will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one

licensee. § 8202 (b) Every person shall obtain a separate license for each premises where it engages in commercial cannabis cultivation.
Problem: Multiple cultivation styles require separate licenses, which currently may not share drying, immature plant, processing, harvest storage, etc. areas.
Solutions: Exemption for Operators under $750,000 of gross receipts, so they can use the same premises for drying, processing, harvest storage, and immature plant areas where a nursery or cultivator licensee holds multiple CDFA licenses (or Microbusiness license including cultivation) for different styles of cultivation (outdoor, mixed light, etc.) on the same parcel.

Code Section: §8000(z) "Premises" means the designated structure or structures 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 will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.
Problem: Many rural farms have homes in between the location of canopy areas, processing areas, drying sheds, etc. Homes are not allowed to be part of the premises. As a result, many applicants must have premises broken into two or more areas on a property.
Solution: Allow non-contiguous premises on the same property or on property that is adjacent/contiguous and for which there is a legal right to occupy.

Code Section: §8000(z) "Premises" means the designated structure or structures 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 will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee. §8201(f) (License Type)"Processor" is a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis and non-manufactured cannabis products.
Problem: Licensed Rural cultivators that have more than one farm, even if close in proximity, must have drying areas, storage area, processing areas and other cultivation related facilities on each property, creating an unnecessary financial burden, unnecessary land disturbance and development. The only other choice is to apply for a very expensive Processor license.
Solution: Allow licensed cultivators that have more than one property licensed to have shared facilities between the two licensed premises if they have maximum gross receipts of $750,000 or less. Track and Trace will still allow for complete accountability and separate tracking of product. This would avoid a separate $9,370 processor license fee, $1,049 application fee, and would avoid unnecessary environmental impact of additional buildings being developed.

Code Section: §8000(z) "Premises" means the designated structure or structures 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 will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.
Problem: Small farmers have to build drying and processing facilities on every farm. This is expensive and creates unnecessary environmental impact as compared to shared facilities.
Solution: Create a Shared Facilities license, for Operators with maximum gross receipts of $750,000, similar to that of the CDPH Shared Facilities license. If shared facilities were permissible, small farmers could ban together to conduct drying and processing in one shared facility.

Code Section: §8000(z) "Premises" means the designated structure or structures 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 will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.
Problem: Small farmers who do not qualify for a Microbusiness license (because they do not want 3 activities) are not allowed to share premises if they are cultivating and conducting value-added activities such as non-volatile manufacturing on the same property. Currently, a farmer cannot use thier dry room as a manufacturing room. A cultivator cannot re-purpose a room or building that was needed at one stage of the cannabis business activity, but not needed for that purpose during the next stage of the cannabis business cycle if it crosses license

types, even if that cultivator holds the proper licenses for each activity. For example, the storage of Distributor-Transporter (self-distribution) license records must be kept in an entirely separate facility than the cultivation records, or from the drying room
Solution: Allow non-cultivation cannabis activities, such as manufacturing, that are licensed under a different cannabis business license (through BCC or CDPH) to be co-located on the same premises as the cultivation license activities.

**Issue**: Requirements for Distributor-Transport Only (D/T Only) licenses for self-distributors under BCC licensing are difficult for small operators given the need for a separate records storage area and costly insurance requirements. Transferring the transportation for cultivators to CDFA could help.

Code Sections: §8000 (z) "Premises" means the designated structure or structures 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 will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee. §5308 (b) A distributor licensee shall at all times carry and maintain commercial general liability insurance in the aggregate in an amount no less than $2,000,000 and in an amount no less than $1,000,000 for each loss. §5315 (b) A complete application for a distributor transport only license shall include all the information required in an application for a distributor license.
Problem: Distributor-Transport (self-Distribution) licenses contain overly burdensome requirements for small operators that are merely self-distributor-transporters. It is unnecessary for self-distributor-transporters to insure their own product. Record storage must be in an entirely separate structure than the rest of the operator's records since the licensed premises for a D/T Only license is not the same premises as the self-distributor-transporter's underlying operations (cultivation, nursery, processing or manufacturing).
Solution: Transfer authority to CDFA to issue Distributor-Transporter Only licenses and allow shared premises with cultivation license record storage. D/T Only licensees are currently not even able to STORE cannabis under the D/T Only license. Therefore, the ONLY premise for a D/T Only license is for the storage of records. Forcing cultivators to create a separate space to simply store records is overly burdensome. Furthermore, under the proposed regulations, D/T Only licensees do not have to comply with the same security requirements as a regular distributor licensee because it was recognized that the D/T Only license type was intended to help cultivators get their product off the farm to licensed processors, distributors and manufacturers. Requiring separate premises and requiring huge insurance policies when the cultivator is merely transporting their own product licensed under CDFA is unduly burdensome.
Alternate Solution: Remove the insurance requirement and allow an exception to the prohibition on sharing premises of the D/T Only license records and the licensee's other record storage area for another on-site license (cultivation, processing, etc.).

**Issue**: Nursery considerations need to be better addressed.

Code Section : 8000 (m) "Immature plant" or "immature" means a cannabis plant which has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.
Problem: 8000(M) The definition of Immature plant lacks appropriate definition of threshold for when a cutting qualifies as an "immature plant" for purposes of Track and Trace. The current definition is lacking; a plant can have a half inch of roots but not survive when transplanted.
Solution: The threshold definition for a plant being big enough to qualify as "immature" should be set as "roots growing out of rockwool cube or other propagation method with roots measuring at least 1" in length. Any plant in any medium when transferred to a cultivator or retail outlet would require a UID.

Code Section: 8000(n) "Indoor cultivation" means the cultivation of cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty five watts per square foot.
Problem: The definition of "Indoor Cultivation" does not address the fact that Nurseries do not have a wattage limitation. This could be interpreted to require a nursery who cultivates indoors to be required to have a

cultivation license.
Solution: Add "Except Nurseries": "artificial light at a rate above twenty five watts per square foot, except nurseries."

Code Section: §8000 (w) "Nursery" means all activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis. §8201(e) License Type "Nursery" is a cultivation site that conducts only cultivation of clones, immature plants, seeds, and other agricultural products used specifically for the propagation of cultivation of cannabis.
Problem: Proposed definition of "Nursery" could unintentionally require cultivators to obtain a Nursery license even if they are propagating seeds or plants for their own cultivation and not for sale to others.
Solution: Add the words "for sale to others" to the end of the definition.

**Issue**: Section 8100 could use refinement: Requirements for Temporary Licenses do not account for Water Board and CDFW delays and do not streamline A and M issue as intended with A and M being able to do business with one another.

Code Section: §8100(b)(1) An application for a temporary license shall include the following (1) The license type, pursuant to section 8201 of this chapter, for which the applicant is applying and whether the application is for an M-license or A-license;
Problem: Unnecessarily requires cultivators to choose A or M license instead of allowing a default A and M designation.
Solution: Automatically designate all licenses A and M unless the applicant wishes to only be classified as one or the other and notifies CDFA. Given that all licensees (A and M) may do business with one another and given that cultivators do not have to label their product A or M (only certain manufactured products must label before the retail point), it seems unnecessary to have folks have to specify. The default should be both designations unless one requests otherwise.

Code Section: §8100(b)(9) Evidence of enrollment with the applicable Regional Water Quality Control Board or State Water Resources Control Board for water quality protection programs or written verification from the appropriate board that enrollment is not necessary.
Problem: §8100(b)(9) requires Proof of Enrollment from Water Board but the Water Board is months behind in processing registrations into enrollments even after people have paid their fees. There are also individuals who are in discussions with Tribes that must inform the Water Board of permission for the cultivator to obtain Water Board enrollment. Many Tribes did not have sufficient warning from the Water Board that these requests would come in and they need additional time to develop processes and procedures especially given their concern about losing federal funding.
Solution: Allow proof of registration and payment of fees to the Water Board in order to process application and issue a conditional license, instead of requiring proof of Enrollment, for a specified amount of time (with possible extensions if the outside agencies are causing the delay). The conditional license would require ultimate submission of proof of enrollment.

Code Section: §8102(r)(2) A copy of a project specific Notice of Determination or Notice of Exemption and a copy of the CEQA document, or reference to where it may be located electronically and any accompanying documentation or permitting package from the local jurisdiction used for discretionary review pursuant to CEQA if the local jurisdiction has not adopted an ordinance, rule, or regulation pursuant to section 26055(h) of the Business and Professions Code;
Problem: §8102(r)(2) might infer that an environmental review must be done at every project site even a local jurisdiction's Notice of Determination or Exemption under CEQA has been issued for a jurisdiction-wide commercial cultivation program.
Solution: Modify wording to make clear that "a project specific" Notice of Determination or Notice of Exemption refers to the Determination made pursuant to adoption of an ordinance that allows for a commercial cultivation program and that the jurisdiction-wide commercial cannabis licensing program is the "project" (as

opposed to the cultivation site at the applicant's premises being the "project" always requiring the review. If a jurisdiction has evaluated the potential impact of a jurisdiction-wide commercial cultivation ordinance, then the CEQA document prepared by that jurisdiction, whether a Mitigated Negative Declaration and supporting materials, or a full EIR, should be the document to be submitted and this section should not infer that the CEQA review be conducted at the specific premises level unless the jurisdiction did not go through a CEQA analysis and the CDFA determines that the activity is not exempt (as indicated in subsection (3)).

Code Section: §8102(w) A copy of any final lake or streambed alteration agreement issued by the California Department of Fish and Wildlife, pursuant to sections 1602 or 1617 of the Fish and Game Code, or written verification from the California Department of Fish and Wildlife that a lake and streambed alteration agreement is not required.
Problem: §8102(w) requires a final LSA or Determination Letter (that one is not needed) but CDFW is radically behind in its processing of applications. CDFW has a history of taking 6-18 months to process LSA applications. Often, deadlines for CDFW response
Solution: Allow applicants to submit proof of application and payment of fees for an LSA rather than the final LSA or determination that one is not needed in order to process the CDFA annual application. Even if the CDFA license is made conditional with respect to a continuing obligation to provide final LSA documentation, since the applicant has no control over the lengthy process that CDFW is making them go through, they should not be prevented from getting a license.

**Issue**: Application fees and license fees need review and insertion of additional tiers.

Code Section: §8101 (k) Small Mixed-Light Tier 1 $1,310 (l) Small Mixed-Light Tier 2 $2,250
Problem: Mixed Light Application fees for Tier 2 are substantially higher than Tier 1 but the application materials are identical.
Solution: Reduce Tier 2 application fee. There seems to be no difference in the requirements or application so there seems to be no justification for the higher fee.

Code Section: §8101(r) Processor $1,040 application fee §8200 (r) Processor: $9,370 license fee.
Problem: Small cultivators who self-process cannabis grown at more than one licensed premise must pay expensive application and license fees as a full processor even if they are not processing cannabis grown by others. The current proposed fee for a Processor license is $9,370 plus the $1,040 application fee. Most small farmers, even if they have two farms, cannot afford that.
Solution: If the prior suggestion to allow processing of cannabis grown at multiple locations by the same small operator under the cultivation license is not instituted: Create a streamlined category of Processor for self-processing of product grown at different locations by the same licensee if that licensee has less than 22,000 square feet of canopy across all licensed premises for which the Self-processor license is applied for.

Code Section: §8101(r) Processor $1,040 application fee §8200 (r) Processor: $9,370 license fee.
Problem: Cottage level Processors (for others) cannot afford high fees. Those that don't self-process are faced with very high Processor License fees. Many rural areas have a community processor that that does not want to become a large scale processor but has the appropriate facilities for a small community.
Solution: Allow Cottage level Processor licenses.

Code Section: : §8101(q) $520 application fee §8200 (q) Nursery: $4,685 license fee
Problem: Smaller Nurseries should not have to pay such a high license fee.
Solution: Create a Cottage nursery license at 5,000 sq. ft. maximum. This would allow those traditional seed breeders to come into the regulated market. Most seed breeders operate in small areas and the fees for a full nursery license are out of reach.

**Issue**: Adding a new designated area (for segregating cannabis subject to an administrative hold) could be unduly burdensome if not specifically allowed to be co-located in other structures.

Code Section: §8106 (1)(i)Designated area(s) for physically segregating cannabis or non-manufactured cannabis products subject to an administrative hold pursuant to section 8603 of this chapter.
Problem: §8106 (1)(i) requires a new designated area for segregating cannabis or cannabis goods subject to an administrative hold without enunciating that such designated area may be contained within a structure that contains other licensed activities or whether it must be located in a separate structure. Rural cultivators are already having trouble with the number of separate facilities that are required, if they are not allowed to co-locate this area in a structure that is also used for secure cannabis storage or drying, etc. it would create an unreasonable additional burden. So long as they keep the designated area separate from other activities, the area should be allowed to be located in another structure also used for other purposes.
Solution: Specify that this new designated area may be located within structures used for other licensed activities so long as the area is a separate designated area and the cannabis is physically kept separate. Allow lock boxes in structures used for other activities on the premises.

**Issue:** Limitation of Specialty Cottage Outdoor license to 25 plants severely restricts eligibility for this level license.

Code Section: §8201(a)(1)"Specialty Cottage Outdoor" is an outdoor cultivation site with up to 25 mature plants.
Problem: Specialty Cottage Outdoor specifies plant count rather than square footage. Some farmers prefer to grow more plants with a smaller size, especially if they are in climates that do better with that kind of growing style.
Solution: Urge the Legislature to change the definition to include "or up to 2500 square feet" into definition.;
Issue: Specificity and clarification regarding change requests would be helpful.

Code Section: 8205 (3) Modifications or upgrades to electrical systems at a licensed premises shall be performed by a licensed electrician. A copy of the electrician's license shall be submitted with any premises modification requests for electrical systems.
Problem: Limits licensed contractor to only an Electrical contractor to do all electrical work rather than allowing a licensed General Contractor to conduct the work as permitted by law.
Solution: Change Electrician to Licensed contractor.

**Issue**: One-way supply chain creates unintended difficulties.

Code Section: §8211 Licensees are prohibited from accepting returns of cannabis plants or non-manufactured cannabis products after transferring possession of cannabis plants or non-manufactured cannabis to another licensee after testing is performed pursuant to section 26110 of the Business and Professions Code.
Problem: The one-way supply chain has created a number of unintended problems. There is no process by which tracked and traced cannabis or cannabis products can be returned to the farmer and remediated. There are false positive tests and there are also times when potency or other features are not as predicted. Farmers should have a way to salvage the crop unless it would be harmful to others. Strict re-testing and track and trace would provide the necessary accountability and safety provisions.
Solution: Create a process by which remediation can occur with strict adherence to track and trace and re-testing.

**Issue**: Small home-based operators need to be able to use their homes for offices and to share office space across all licenses they hold.

Code Section: §8400 Record Retention.
For the purposes of this chapter, "record" includes all records, applications, reports, or other supporting documents required by the department.(a) Each licensee shall keep and maintain the records listed in subsection (d) for at least seven (7) years from the date the document was created.(b) Records shall be kept in a manner that allows the records to be provided at the licensed premises or delivered to the department, upon request.(c) All records are subject to review by the department during standard business hours or at any other reasonable time

as mutually agreed to by the department and the licensee. For the purposes of this section, standard business hours are deemed to be 8:00am - 5:00pm (Pacific Time). Prior notice by the department to review records is not required. (d) Each licensee shall maintain all the following records on the licensed premises, including but not limited to:(e)(1) Department issued cultivation license(s); (2) Cultivation plan;(3) All records evidencing compliance with the environmental protection measures pursuant to sections 8304, 8305,8306, and 8307 of this chapter;(4) All supporting documentation for data or information entered into the track-and-trace system;(5) All UIDs assigned to product in inventory and all unassigned UIDs. UIDs associated with product that has been retired from the track-and-trace system must be retained for six (6) months after the date the tags were retired;(6) Financial records related to the licensed commercial cannabis activity, including but not limited to, bank statements, tax records, contracts, purchase orders, sales invoices, and sales receipts;
(7) Personnel records, including each employee's full name, social security number or individual taxpayer identification number, date of employment, and, if applicable, date of termination of employment;(8) Records related to employee training for the track-and-trace system or other requirements of this chapter. Records shall include, but are not limited to, the date(s) training occurred, description of the training provided, and the names of the employees that received the training;(9) Contracts with other state licensed cannabis businesses;(10) All Permits, licenses, and other authorizations to conduct the licensee's commercial cannabis activity;(11) Records associated with composting or disposal of cannabis waste;(12) Documentation associated with loss of access to the track-and-trace system prepared pursuant to section 8402(d)of this chapter. All required records shall be prepared and retained in accordance with the following conditions:(1) Records shall be legible; and (2) Records shall be stored in a secured area where the records are protected from debris, moisture, contamination, hazardous waste, fire, and theft.
Problem: Small cultivators can't use home-based offices to store records since records must be kept on licensed premises and homes are not allowed to be a part of the licensed premises. Also, small operators need to be able to use the same office space for records across all licenses they hold.
Solution: Allow rural cultivators who have homesteads on the same property to use an office room in their home to store records. Small family farms often utilize a home-based office to keep their business records across all licenses. To require a small farmer to install a separate facility to keep records is unnecessarily burdensome. Often offices inside homes are more likely to protect against damage from debris, moisture, contamination, hazardous waste, fire and theft (subsection (e)(2)).

I**ssue**: Failure to recognize intermittent internet access of rural farmers.

Code Section: 8402 (4) Immediately cancel the access rights of any track-and-trace user from the licensee's track-and-trace system account if that individual is no longer authorized to use the licensee's track-and-trace system account.
Problem: Immediacy requirement of notification of discontinued authorized user is impractical for rural areas where internet is not available.
Solution: Change to: "as soon as possible, but in any event, not later than 3 days." This is consistent with track and trace reporting.

**Bureau of Cannabis Control**
Code Section:§5006(d) The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.
Problem: §5006(d) still requires Distributor-Transport Only applicants to submit a premises diagram that includes security cameras even though security requirements are exempt for Distributor-Transport Only.
Solution: Put in explicit exception for Distributor-Transport Only applicants to list security camera on Premises Diagram.

Code Section: §5008 An applicant shall provide proof of having obtained a surety bond of at least $5,000 payable to the State of California to ensure payment of the cost incurred for the destruction of cannabis goods necessitated by a violation of the Act or the regulations adopted thereunder.
Problem: Distributor-Transport Only licensees are required to get a $5,000 surety bond under CDFA regulation §8102(o).

Solution: Clarify that Distributor-Transport Only licensees may use the same bond to meet both BCC and CDFA section for their cultivation, nursery, and manufacturing cannabis products.

Code Section:§5008 An applicant shall provide proof of having obtained a surety bond of at least $5,000 payable to the State of California to ensure payment of the cost incurred for the destruction of cannabis.
Problem: Distributor Transport Only Licensees that are transporting ONLY Nursery products are being required to have a bond for destruction of products when nursery products are not required to be destroyed.
Solution: DO not require bond for Distributor Transporters that only deliver Nursery products.

Code Section: §5025(a) Each license shall have a designated licensed premises, with a distinct street address and suite number if applicable, for the licensee's commercial cannabis activity ...(e) Any licensed premises that is adjacent to another premises engaging in manufacturing or cultivation shall be separated from those premises by walls, and any doors leading to the cultivation or manufacturing premises shall remain closed.
§5026(d) A licensed premises shall not be located within a private residence.
Problem: Many rural farms have homes in between the location of canopy areas, processing areas, dry sheds, etc. This section requires applicants to divide their property into two or more areas. Operators also need to be able to use an office in their home to securely store and keep records for both the cultivation license and the Distributor-Transporter Only license.
Solution: 1) Allow non-contiguous licensed activities to co-locate on the same property or on an adjacent property. 2) Allow storage of licensee records in a home office on the same premises. 3) Allow licensed non-cultivation cannabis activities to be co-located on the same premises as the cultivation license activities.

Code Section: §5033(b) Storage of inventory. A licensee shall not store cannabis goods outdoors.
Problem: The prohibition on outside storage is not practical for Nurseries. Nurseries produce stock outside during mild periods of the year. These plants are produced and stored outside prior to delivery. This section would require additional lighting to store plants inside prior to delivery.
Solution: Exempt Nurseries from the prohibition of outdoor storage of cannabis goods.

Code Section: §5407. Sale of Non-Cannabis Goods on Premises. A licensed retailer may sell only cannabis accessories and any licensee's branded merchandise or promotional materials.
Problem: Unfairly ends current cannabis medicinal business models. Retailers that combine wellness activities such as massage, yoga classes, canna-tourism attractions, holistic healing through complementary non-cannabis herbal lotions and tinctures would be forced into a "cannabis only" business model. A wide range of products would be lost, including massage tools, nutritional supplements, magazines, books, artwork, candles, jewelry and much more.
Solution: Continue to support the medical side of cannabis as an integrated herbal treatment that is a centuries-old part of the natural, holistic, herbal treatment spectrum. Eliminate **§5407.**

Code Section: §5500(a) Some license types "created by the [CDFA and DPH] are not considered qualifying commercial activities for the purposes of obtaining a microbusiness license."
Solution: Any license issued by a state regulatory agency applies toward the microbusiness if it is a license for any three of the following four activities: cultivation, retail, manufacturing, distribution. Each activity under the microbusiness license must meet the separate requirements pertaining to their activity under the regulations created by these agencies.
Solution: Both Nurseries and Processing are activities that should be included as qualifying for a microbusiness license as they represent distinct yet inter-related and essential activities for small operators seeking to participate in the seed to sale commercial cannabis marketplace.

**California Department of Public Health**
Code Section: §5303(b) prohibits distributors from repackaging or relabeling manufactured products, with a limited exception for relabeling potency after testing and for distributors who also hold manufacturing licenses.
Problem: Amendments need to §5303(b) to allow distributors to relabel manufactured products.

Solution: The BCC is likely aware of widespread confusion regarding labeling requirements and the high frequency of small mistakes and oversights. In this light, it is unreasonable for distributors to send products back to manufacturers simply to correct minor issues in labeling. While the limited exemption for potency is helpful, the BCC should go further to allow relabeling in general for manufactured products.
While Business and Professions Code §26121(a)(1) prohibits packaging by a distributor, statute does not prevent relabeling by a distributor.

Code Section: §40190. Definitions (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."
Problem: There is a need for language stipulating a shared-use facility operating several access-controlled common-use areas simultaneously.
Solution: "Common-use area" means one of any number of designated areas in the manufacturer's registered shared use facility, including equipment that is available for use by more than one licensee, provided that the use of any one common-use area is limited to one licensee at a time."

Problem: Clarity is needed for rules regarding samples between businesses.
Solution: The ability for producers to provide samples to distributors and retailers is essential in any industry, and follows long-standing practice in the cannabis industry. Samples can help small producers gain a foothold in the marketplace, and ensure that patients and customers have access to high-quality products.

Our understanding is that providing samples is technically allowed under current regulation so long as samples are not given away for free, as would be prohibited under Business and Professions Code Section 26153. That said, regulations currently don't provide clear guidance on how samples can be entered into track and trace or recorded if they are not intended for final sale to the consumer. The ability of distributors and retailers to sample products for product development purposes is also currently unclear. This lack of clarity has led some producers, acting as individuals, to purchase their own products at retail to subsequently give away under the personal possession guidelines in AUMA. In that light, a far more efficient system would be to clarify when and how samples may be provided between businesses. Oregon's Rule 845-025-1360, "Quality Control Samples," provides a model for this type of regulation, and could be adopted in California with minor changes to account for differences in state law.

**Conclusion**
On behalf of the Mendocino County Board of Supervisors, we appreciate the opportunity to provide these comments. We look forward to a cooperative working relationship as California moves forward in the regulation of cannabis activity. Please contact Sarah Dukett at 707-463-4441 or duketts@mendocinocounty.org if you have any questions regarding our concerns and comments.

Sincerely,

Dan Hamburg, Chair
Mendocino County Board of Supervisors

cc: Honorable Mike McGuire, California State Senate
Honorable Jim Wood, California State Assembly
California State Association of Counties
Rural County Representatives of California
Paul Yoder and Karen Lange, Shaw/Yoder/Antwih, Inc.