

Supplemental Appendix A: Electronic Comments

Note: Due to the long interval between CAG meetings, we are providing this supplement containing comments submitted between September 20 and October 17, 2017.

The following comments were submitted by email to cagcomments@migcom.com:

Comment 1:

Reminder If you ban personal outdoor, no state enforcement \$\$\$...

[\[California NORML\]](#) Section [34019\(f\)\(3\)\(C\)](#) of the AUMA states that funds will be disbursed through the Board of State and Community Corrections “for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act.”

However, the section goes on to state, “The Board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under Section [11362.2\(b\)\(3\)](#) of the Health and Safety Code [outdoors upon the grounds of a private residence], or retail sale of marijuana or marijuana products.”

Comment 2:

Calaveras, 30 ft setbacks for personal outdoor all zones ...

<http://cannabis.calaverasgov.us/>

Comment 3:

Commercial Cannabis explained Video

<https://www.youtube.com/watch?v=5jlcV1aasZQ&feature=youtu.be>

Comment 4:

Attached please see our submissions for CAG meeting #8.

(See Attachment A1, beginning Page A-4.)

Comment 5:

Dear CAG Members:

With respect and empathy for the differing perspectives on cannabis and it's commercialization, I feel it is imperative to provide recommendations for the permanent ordinance that are objective, fact-based, and, thus, ethically sound. To put it plainly: it would be unethical if recommendations are based on the concerns of a few rather than the will of the majority (a measurable and objective criteria, with hard data from Measure W and Prop 64), or for compromises to be made based on the opinion of an individual on the CAG or at CDA that does not represent the majority of our community. Likewise, if restrictions are based on untested assumptions and heresay, rather than documented and impartial evidence, that would also result in unjust and faulty policy. You no doubt know these things. And yet, we seem to lack objective decision criteria that can clearly define rationale or at least a basis for your proposal beyond personal opinion. I think we need decision criteria along with their rationale, if the final proposal is to be accepted by our community members, regardless of where they stand on the issues.

Some specific examples of what ordinance details require objective, fact-based decision criteria include:

- Setbacks and Odor Control: For outdoor grows, an impartial assessment of distance required to shield neighbors from odor would need to be done, as there is no odor-measuring device, and complaints are matched by many who have none! Whether a setback is 30 feet or 300, the CAG should have an objective and fair rationale for the distance, as an

arbitrary number would clearly create poor policy and difficulty justifying it to any party. It is easy enough to survey neighborhoods, and measure the distances odor travels. A reasonable sampling size should account for topographical, terrain, and other environmental variables. Or, if there is a better method, great. But we need something objective. For indoor grows, where odor can be controlled through filters, there is no objective rationale for a setback greater than what is required for buildings - or, if there is, we need to hear it.

- Parcel Size and Cultivation License Types: If parcel size is to be a factor in determining cultivation license types (i.e., quantities cultivated), why? If setbacks are met, nuisances addressed, what would be the rationale? Does 25 plants on 4.9 acres pose more of a nuisance than 25 grown on 5.2 acres? Of course not. So how might an equitable standard be devised? If setbacks, odor, security, light glare, and noise are all addressed, what does parcel size have to do with it? We are over-complicating code and its enforcement by slicing up acres. Let us address fully the nuisance issues, then allow commercial cultivation in rural areas as we do for all other crops, none of which are restricted by parcel size. Or, if you see a reason to restrict licenses based on parcel size, please provide a clear rationale, an equitable standard, and one consistent with precedent in County Land Use Code.

- Outdoor Cultivation for Personal Use:

As with the above points, if the CAG is considering prohibiting outdoor growing for personal use, we need to know why. If odor, noise, visibility, security are addressed, why on earth should we encourage wasteful uses of energy for grow lights, as well as foster uses of pesticides and artificial, costly, and often ecologically unsound forms of feeding plants that must be used when grown indoors? What is the rationale for prohibiting outdoor grows of 6 plants, as long as reasonable setbacks and all other nuisance issues are handled?

- For manufacturing, distribution/testing, dispensary, and transportation license types, why would you not defer to State guidelines (with experts who know plenty, and, all due respect, likely more than the CAG or county staff), and restrict based only on appropriate zoning for such operations? We have zones for light industrial and commercial uses, as well as brownfield sites that could be cleaned up and put to use. So, why or why not?

No doubt there are more details that require objective rationale for your decision criteria. If restrictions are based on nothing more than "because we simply don't like cannabis" or "we are afraid there will be too much", that is not good enough. Our community, on all sides of the issue, deserves better. And so, for each decision, I respectfully urge you to define "why", and to present objective, fact-based rationale for your recommendations. Then at least we as a community can say to ourselves and each other, like it or not, there was a reasonable and objective criteria for the decision.

With thanks for your diligence,
District 4 Homeowner

Comment 6:

Set backs should be 10 feet from property line

Comment 7:

Dear CAG members,

At the risk of sounding like a broken record, PLEASE recommend that setbacks on grow parcels be changed back to the previous "from the nearest neighbors living space".

The minute the BOS and the sheriff changed it to your own property line, it took hundreds of farmers out of compliance. Also, please recommend generous square footage allowances for small farms.

Most farmers in Nevada county are small farmers on 5+ acres.

If we aren't allowed at least 5000 square feet, we won't be able to survive in what is a very competitive market.

Thank you,

30 year resident of Nevada County

Comment 8:

Many of the properties on cruzon grade rd. (on the ridge) are long and narrow. Often it is impossible to have a 100' setback on each side of the property with a garden in the center. Would it be possible to substitute a written statement from the neighbor declaring he/she does not require a setback? My neighbor would be happy to do this, as I would do so for him. Otherwise many of us who have grown our medicine for several years will be unable to do so. The only reason some of us grow our own medicine is because we cannot afford to purchase it. I am 70 yrs old and very concerned about the prospect of not having a cannabis tincture. Going back to RX pain killers will greatly decrease my (& other's) quality of life.

Thank you for your time.

Comment 9:

Please remember that our regulation will allow our farmers and businesses to compete in the statewide industry, or it will restrict them.

It will be important to have regulations that allow for use of kitchens and manufacturing facilities, as flower is a shrinking market segment and our farmers will need to be creative to compete.

We risk losing 60% or more of our local cannabis economy. That will mean less jobs, and a severe blow to our economy.

**Nevada County Cannabis Ordinance Recommendations – Nevada County
Cannabis Alliance**

Submitted 10/5/17

Purpose

This document provides suggested operating standards for personal and commercial cannabis activities in Nevada County. The intent of these recommendations is to ensure neighborhood compatibility, minimize potential health, safety and environmental impacts, provide safe access to medicine, comply with MAUCRSA and provide opportunities for economic development.

The Nevada County Cannabis Alliance acknowledges the proliferation of cannabis production in Nevada County over the last several years. We also acknowledge the reality of environmental damages and the negative impacts on neighbors by an unregulated industry. The following recommendations were drafted with the intent to increase compliance and reduce and or ultimately eliminate detrimental grows. Transitioning an entire industry from being unregulated to regulated will take time. However, at the Alliance, we firmly believe that the best way to reduce unregulated cultivation is to provide a reasonable pathway for responsible growers to enter the regulated market. The weeding out of non-compliant growers may take several years. However, with an accessible and affordable permitting process the timeframe will be accelerated as growers are encouraged to convert to the regulated system. Results from the Alliance survey were used to prepare these recommendations. These recommendations are purposefully designed to be modest, to ease environmental impacts and to discourage large corporations and outside companies from coming to our county. They are complete and ready to be implemented as they are and not intended as a “high bid” from which to negotiate from.

The cultivation and distribution of cannabis is now legal in California. Nevada County voters have supported commercial cannabis activities and cannabis use in the last two elections. Due to these facts, the Alliance supports moving Cannabis regulations out the General Code where it is

managed as a nuisance, into the Land Use Code. Enforcement of State licensed cannabis regulations should be handled by the Community Development Department. Criminal cannabis activities should be handled by local law enforcement.

The definitions provided were taken from the State of California draft regulations.

https://static.cdfa.ca.gov/MCCP/document/CalCannabis%20Proposed%20Medical%20Regulations_4.28.17.pdf

These recommendations are presented along with rationale for each provision as well as reference to state laws and regulations (See Appendices).

DESCRIPTION	RECOMMENDATION	RATIONALE	STATE LAWS & REGULATIONS
GENERAL CONCERNS AND ISSUES			
Change Regulations from General Code to Land Use	Governance of cannabis should be moved from Title II of the General Code to Title III Land Use and Development, except to issues that pertain to a true nuisance.	Cannabis as a permitted industry should be treated similarly to like permitted uses and should be reflected in County Code.	
Property Owner Approval	<p>Anyone cultivating on a parcel who is not the legal owner(s) of the parcel must provide a) written documentation showing the owner's approval b) name and address of owner, c) copy of lease or rental agreement or contractual documentation.</p> <p>If the applicant is the owner of the property, the applicant shall provide a copy of the title or deed to the property.</p>	These standards are consistent with existing state regulations.	<p>State Cultivation Regulations Section 8103.</p> <p><i>Property owner approval.</i></p> <p>See Appendix F.</p>
Track and Trace	All cannabis cultivated in the county shall adhere to state requirements for track and trace.	A seed to sale traceability program creates transparency and accountability in the industry minimizing the opportunity for youth access, diversion and/or inversion by the black market.	<p>See SB 94 Section 26067. <i>Unique identifier to track through distribution chain.</i></p> <p>Cultivation Regs Section 8403. <i>Track & Trace User requirements.</i></p> <p>See Appendix K</p>
Background Checks	Applicants for permits must meet all state regulations requiring security and background checks.	Applicants must prove that they are in good standing with the law and eligible to operate a licensed cannabis business.	<p>SB94 Section 26051 (a)(1)(A-C)</p> <p>See Appendix B</p>

Cultivation Site Requirements	Licensees shall submit their Premises Diagram, Cultivation Plan, Waste Management Plan, Standards of Cleanliness, Labeling, and Environmental Protection Measures.	Follow state regulations. Establishes professional standards for licensed cultivation and cultivation related licenses.	State Cultivation Regulations: Article 4, Section 8300 - 8315. See Appendix A
Multi-Tenant Cultivation (relocation plan)	Multiple cultivation licenses and license types may be located on the same property, as established by an assessor's parcel number, if each licensed premises has a unique entrance and immovable physical barrier between uniquely licensed premises. These licenses may not cumulatively exceed the allowable canopy area for the size and setbacks designated by land use. We suggest up to 1 acre of cumulative licenses of Type 1 or less with a minimum parcel size of 20 acres.	This would allow larger parcels to have multiple smaller, uniquely owned license types cumulate on a property to help relocation from properties that are no longer viable. It would also help create cannabis cooperatives.	State Cultivation Regulations: Section 8206 & 8207.
Non-Remunerated Patient Cultivation	Allow for non-licensed patient caregiver cultivation and cannabis production according to state regulations.	Allowing affordable patient access through the use of the strict caretaker definition.	SB94 Section 26033 (a) (b) Appendix P
PUBLIC HEALTH AND SAFETY & GENERAL NUISANCES			
State Labor Laws	Licensees shall comply with all applicable federal, state, and local laws and regulations governing employment.	Maintaining the same requirements as all other regulated businesses.	California State Labor Laws
Site Security Plan	All cultivation areas shall be adequately secured to prevent unauthorized entry, including a secure locking mechanism that shall remain locked at all times.	To prevent access and deter criminal activity by unauthorized individuals such as youth or criminals.	Nevada County Code: G-IV (H)(1) SB94 Section 26051 (a)(10)(C) See Appendix B

Public View of Cultivation Activities	There shall be no exterior evidence of cultivation as determined by visibility of plant material, in public view and/or from a public right-of-way or publicly traveled road at all stages of growth. An obscuring fence can be used to address this requirement.	To keep plants from public view.	Nevada County Code: G-IV State Cultivation Regulations, Section 8301 requires submission of a diagram of the premises as well as a plan showing all cultivation areas. See Appendix A.
Odor Mitigation for Indoor Cultivation	All structures used for Indoor Cultivation shall contain ventilation, air filtration and odor control filters to prevent odor, mold and mildew from escaping the Cultivation site.	To mitigate any impacts created by smell, as directed in the placeholder County Ordinance	Nevada County Code: G-IV 5.4 (H)(6)
Odor Mitigation for Outdoor Cultivation	To be determined by setbacks from a neighboring residence or outdoor living area that may be impacted.	To mitigate any impacts created by smell, as directed in previous county ordinances.	Nevada County Code: G-IV 5.4 (H)(6)
Light Pollution	All lights used for the Cultivation shall be shielded and downcast. Any lights used from sundown to sunup shall be completely obscured from detection outside the cultivation area.	To decrease nuisances by restricting nighttime glare.	Draft Cultivation Regulations Section 8314. <i>Lights must be shielded from sunset to sunrise.</i> See Appendix E
Noise Pollution	Noise levels generated by cultivation shall not exceed the standards set forth in Table L-II 4.1.7 (Exterior Noise Limits) of the Nevada County Zoning Ordinance applicable to the Land Use Category and Zoning District for the Premises on which the cultivation occurs.	Noise levels should be held to the same requirements as similar activities.	Table L-II 4.1.7 (Exterior Noise Limits) of the Nevada County Zoning Ordinance applicable to the Land Use Category and Zoning District

<p>Effect on the Health, Safety, or General Welfare.</p>	<p>1. Cultivation will require appropriate setbacks (defined herein) to reduce the effects of plant odors. 3. Restrictions on use of pesticides or hazardous materials should mirror state law/regulations.</p>	<p>The ordinance directly address known health, safety or welfare concerns (nuisances) that are not addressed in state regulations</p>	<p>SB 94 sec.13276 Waste Discharge, Cultivation draft regs Sec 8103 – Water Source management, Cultivation Regs Sec 8305 Hazardous Materials management (Ref. Public Resource Code Section 40141.</p>
<p>ENVIRONMENTAL CONCERNS & PROTECTIONS</p>			
<p>Environmental Protections Related to Indoor Commercial Cultivation</p>	<p>Indoor cultivation should follow all state regulations and requirements. Indoor cultivation must require forty two percent renewable energy source or the purchase of carbon offsets as required by the state.</p>	<p>Current Nevada County ordinance stipulates indoor grow lights shall not exceed 1200 watts, which is extremely prohibitive. In light of state requirements local management of business practices is unnecessary. Indoor cultivators use a variety of growing methods.</p>	<p>Cultivation Regulations Section 8315. <i>42 % Renewable source requirement.</i> <i>Zero net energy requirement.</i> <i>Purchase of carbon off-set.</i> <i>Energy efficient equipment standards.</i> Also, see other code sections referenced in Section 8315. See Appendix D</p>

<p>Hazardous Materials</p>	<p>The use of Hazardous Materials shall be prohibited in the Cultivation except for limited quantities of Hazardous Materials that are below State of California threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. Any Hazardous Materials stored shall maintain a minimum setback distance of 100 feet from any private drinking water well, spring, water canal, creek or other surface water body, and 200 feet from any public water supply well.</p>	<p>These standards are consistent with existing state regulations.</p>	<p>State Regs. - SB 94, Sec 177 <i>In coordination with Dept of Fish & Wildlife, regulations re: Soil disposal, water storage, runoff, fertilizers and soil, pesticides/herbicide, riparian & wetland protection mngmt etc.</i></p> <p>Cultivation Regs Sec 8305 <i>Re: Hazardous Materials management, 72 hr holding period for waste, documentation etc.</i> (Ref. Public Resources Code Section 40141..</p> <p>See Appendix G</p>
<p>Water Source and Water Discharge</p>	<p>All Premises used for cultivation shall comply with all requirements of the State Water Resources Control Board as well as the Department of Fish and Wildlife, including but not limited to evidence of permits issued by the applicable Water Control Board or State Water Resources Control Board for water quality protection or written verification from the appropriate board that a permit is not necessary.</p>	<p>These standards are consistent with existing state regulations.</p> <p>These requirements serve to protect our natural habitats, wetlands and water resources.</p>	<p>SB 94 Legislative Council (15) ,(16) and (17). <i>Prohibition of Diversion. Identification of water source. Water discharge requirements.</i></p> <p>See also Cultivation Regs Section 8313(a) and 8109. <i>Compliance with Water Board and Water Source Documentation.</i></p> <p>Nevada County Code: G-IV 5.4 (H)(12)</p> <p>Appendix H</p>

Clear Cutting	Any tree removal for the purpose of cannabis cultivation shall be subject to Land Use and Development Code Sec L-II 4.3.15. (Reference L-V 17.3 for exemption criteria for grading and clearing on AG, AE, and Res AG over 3 acres.)	Environmental protection consistent with County Code	Nevada County Code:
Grading	Grading of any slope in excess of 30 degrees is subject to Grading Ordinance L-V 3.25 and may require an Erosion and Sediment Control Plan. See L-II 4.3.13. (Reference L-V 17.3 for exemption criteria for grading and clearing on AG, AE, and Res AG over 3 acres.)	Environmental protection consistent with County Code.	Nevada County Code
Pesticides	Any pesticides used in the cultivation of cannabis must adhere to guidelines set out by the California Department of Pesticides. No pesticides (and biological controls) will be used in cannabis cultivation operations unless the pesticides are authorized by the California Department of Pesticide Regulation use.	Environmental protections for our soil, wetlands and wildlife, consistent with state regulations.	SB 94 Legislative Counsel Digest Sections (18) and (19). <i>Development of Standards by Dept. of Pesticide Regulation. SB 94 Section 26060 (d)(e)(g). State Draft Cultivation Regs Section 8301(a) (4). Pesticide Storage Area. Section 8301(c) (1). Pest Management Plan. Section 8313 (f) (2) Wildlife Protection Storage Protocols, labeling, drift, consideration of pollinators, surface and groundwater protection.</i>

PLANNING, BUILDING AND CODE COMPLIANCE			
Compliance with All County Codes.	<p>All new structures used or intended for cannabis licensed business activity shall submit complete construction plans and obtain permits.</p> <p>All electrical, mechanical, and plumbing used for cannabis commercial activity shall be installed with valid electrical, mechanical, and plumbing permits.</p>	Commercial enterprises are expected to operate under proper code compliance to maintain public health and safety standards.	
Accessory Structure: Indoor Growing Facility	All structures intended for licensed indoor cultivation shall be up to commercial building code standards. Indoor facilities are as defined by state regulations.	Maintain public health and safety standards.	
Accessory Structures: Hoop Houses, Cold Frames and Other Temporary Structures	Follow county agricultural code for existing like uses.	Maintain parity with other like commercial uses while maintaining public health and safety standards.	
Accessory Structure: Greenhouses, Lathhouses, and Other Permanent Structures	Follow county agriculture code for existing like uses.	Maintain parity with other like commercial uses while maintaining public health and safety standards.	
Accessory Structure: Drying and Curing Shed or Other Facilities	All accessories structures intended for the expressed purpose of drying and curing and should be up to building codes. However, those sheds whose sole use is by owner operators should not be required to meet commercial codes.	<p>Maintain public health and safety standards.</p> <p>Exception for owner operators is predicated on facilities being inaccessible to the public or by employees, therefore not requiring strict and expensive safety requirements.</p>	

<p>Accessory Structures: Processing</p>	<p>All accessories structures intended for the purpose of processing, or drying, curing, trimming, packaging and storing of product shall be up to building code. However, those facilities whose sole use is by owner operators should not be required to meet commercial codes.</p>	<p>Maintain public health and safety standards.</p> <p>Exception for owner operators is predicated on facilities being inaccessible to the public or by employees, therefore not requiring strict and expensive safety requirements.</p>	
<p>Compliance Transition Period</p>	<p>To allow licensees to continue to operate while undergoing compliance. All non permitted structures electrical, mechanical, and plumbing used or intended for any licensed business shall submit complete construction plans and seek as-built permits. Upon submission of applications for permitting applicant will have three years to complete code compliance unless the non-permitted work poses an immediate threat to public health and safety. Each licensee is required to show incremental and measurable progress to receive amnesty.</p>	<p>The goal here is provide incentive to growers to move toward licensing and regulation. Many applicants will not have the capital, resources or time necessary to become code compliant immediately. Without creating a path for them, they will be discouraged and forced out of the regulated marketplace.</p>	
<p>Exemptions from permit requirements</p>	<p>No local permit or registration will be required for non-commercial personal cultivation of 6 plants or less or from qualified caregivers as defined by state codes.</p>	<p>Personal grows should not require the same stringent requirements as commercial cultivation due to their minimal impact.</p>	<p>SB 94. SEC. 20. Section 26033 (a) (b) <i>Qualified Patient Licensure Exemption.</i></p>

ENFORCEMENT AGENCY AND PENALTIES

Enforcement

We strongly recommend the county to create a Cannabis Licensing Department. Law enforcement would be responsible for enforcement of non-licensed, criminal activity. Enforcement of non-criminal grows should be managed by non-law enforcement personnel such as the Ag Commissioner, Building and Planning, Environmental Health, and Code Compliance. In addition to state penalties for cultivation without a license, the county may impose local fines sufficient to deter non-compliant behavior.

With the passage of AUMA, Cannabis is now legal and with this designation it is important to treat code violations similarly as other land use violations. We must no longer associate land use violations as criminal. However, criminal violations should remain under the authority of law enforcement.

State Cultivation Regulations: Article 7, 8600 – 8608.
Specific state enforcement procedures.

Fines and Fees

Local fines and fees should be determined by first taking into account the Administrative Actions outlined in the state regulations. Local fines then should reflect offenses that are unique to the county and not covered by state regulations.

Before determining local fees it would be reasonable to study and review the state fines, which are quite thorough and extensive. Recognize that imposing local penalties that are redundant will then create a double fine structure.

State Cultivation Regulations: Section 8601.

LAND USE	State License Type	Minimum Parcel Size (acres)	Maximum Cultivation Area Per Parcel (Square feet Or plants)	R1 R2 R3	RA-E (Min Parcel Size)	RA-R (Min Parcel Size)	AG (Min Parcel Size)	FR TPZ (Min Parcel Size)	Property Line Setbacks	Neighboring Dwelling Setbacks	Notes
Outdoor Cultivation											
Cottage Outdoor	1C	2	25 plants	NA	A	A	A	A	30 ft.	100 ft.	
Specialty Outdoor	1	5	5,000 or 50 plants	NA	A	A	A	A	30 ft.	150 ft.	
Small Outdoor	2	10	5,001 - 10,000	NA	A	A	A	A	50 ft.	200 ft.	
Medium Outdoor	3	N/A	10,001 - 43,560	NA	NA	NA	NA	NA	N/A	N/A	Subject to CUP
Microbusiness	12	5	Up to 5,000	NA	A	A	A	A	30 ft.	150 ft.	
Microbusiness	12	10	Up to 10,000	NA	A	A	A	A	50 ft.	200 ft.	
Indoor Cultivation											
Cottage Indoor	1C	2	500	NA	A	A	A	A	30 ft.	30 ft.	
Specialty Indoor	1A	2	501 – 5,000	NA	A	A	A	A	30 ft.	30 ft.	
Small Indoor	2A	5	5,001 – 10,000	NA	A	A	A	A	30 ft.	30 ft.	
Medium Indoor	3A	N/A	10,001 – 22,000	NA	NA	NA	NA	NA	N/A	N/A	Subject to CUP
Microbusiness	12	5	Up to 5,000	NA	A	A	A	A	30 ft	150 ft	
Microbusiness	12	10	Up to 10,000	NA	A	A	A	A	50 ft	200ft	
Mixed Light Cultivation											
Cottage Mixed Light	1C	2	2,500	NA	A	A	A	A	30 ft	100 ft	
Specialty Mixed Light	1B	5	2501 – 5,000	NA	A	A	A	A	30 ft	150 ft	
Small Mixed Light	2B	10	5,001 – 10,000	NA	A	A	A	A	50 ft	200 ft	
Medium Mixed Light*	3B	20	10,001 – 22,000	NA	NA	NA	NA	NA	100 ft	300 ft	Subject to CUP
Microbusiness	12	5	Up to 5,000	NA	A	A	A	A	30 ft	150 ft	
Microbusiness	12	10	Up to 10,000	NA	A	A	A	A	50 ft	200 ft	
Nursery											
Wholesale Outdoor	4		43,560	NA	A	A	A	A	100 ft	0 ft	
Wholesale Indoor	4		22,000	NA	A	A	A	A	30 ft	0 ft	
Wholesale Mixed Light	4		22,000	NA	A	A	A	A	30 ft	0 ft	
Non-Remunerated Cultivation											

LAND USE (for non cultivation license types)	State License Types	C1	C2	C3	BP	M1	M2	IDR	PD	AG	FR
Manufacturing											
Non-Volatile Solvents	6	N/A	A	A	A	A	A	N/A	A	A	A
Volatile Solvents	7	N/A	A	A	A	A	A	N/A	A	A	A
Testing Labs											
Testing Labs	8	N/A	A	A	A	A	A	N/A	A	A	A
Processing											
Processing	P	N/A	A	A	A	A	A	N/A	A	A	A
Distribution											
Distribution	11	N/A	A	A	A	A	A	N/A	A	A	A

DEFINITIONS

(k) **“Commercial cannabis activity”** includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this division.

(l) **“Cultivation”** means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(m) **“Cultivation site”** means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

(aj) **“Nursery”** means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(ap) **“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.

(d) **“Primary caregiver”** means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient, and may include any of the following:

(1) In a case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Section 6922, 7002, 7050, or 7120 of the Family Code.

(f) **“Qualified patient”** means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

26070.

Retailers and Distributors.

(a) State licenses to be issued by the bureau related to the sale and distribution of cannabis and cannabis products are as follows:

(1) **“Retailer,”** for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

(2) **“Distributor,”** for the distribution of cannabis and cannabis products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3) (A) **“Microbusiness,”** for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1.

Cannabis Cooperative Associations

Article 3. Purposes

26223.

(a) Three or more natural persons, who are engaged in the cultivation of any cannabis product, may form an association pursuant to this chapter for the purpose of engaging in any activity in connection with any of the following:

(1) The cultivation, marketing, or selling of the cannabis products of its members.

(2) The growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any product of its members.

(3) The manufacturing, selling, or supplying to its members of machinery, equipment, or supplies.

- (4) *The financing of the activities that are specified by this section.*
- (b) *Members of a cannabis cooperative shall be disclosed to the licensing authority before the application is processed.*
- (c) *Members of a cannabis cooperative formed pursuant to this chapter shall be limited to cultivators who only hold a single Type 1 or Type 2 license.*
- (d) *Collectively, members of a cannabis cooperative shall not grow more than four acres of total canopy size of cultivation throughout the state during the period that the respective licensees are valid.*
- (e) *No member of a cooperative formed pursuant to this section shall be licensed to operate a cannabis business in another state or country.*

APPENDIX A

Public View of Cultivation Activities.

Draft Cultivation Requirements Article 4: Cultivation Site Requirements

8301. The Cultivation Plan for Specialty Cottage, Specialty, Small and Medium Licenses shall include the following information:

- (a) A diagram showing all boundaries and dimensions in feet of the following proposed areas:
 - (1) Premises diagram as required by Section 8300 of this Chapter (see below)

8300. Premises Diagram

A premises diagram shall be submitted with each application and contain the following:

- (a) Boundaries of the property and the proposed premises to be licensed, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, and common or shared entryways. The diagram shall show the areas in which all commercial cannabis activities will take place, including but not limited to, areas listed in the Cultivation Plan;
- (b) The assessor's parcel number;
- (c) The diagram shall be to scale;
- (d) The diagram shall not contain any highlighting; and
- (e) If the proposed premises consists of only a portion of a property, the diagram shall be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

Authority: Sections 19302.1, 19304, and 19332, Business and Professions Code and Section 11362.777 Health and Safety Code. Reference: Sections 19320, and 19322, Business and Professions Code.

APPENDIX B

Site Security Plan

SB 94 Section A

(10) Provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

- (b) An applicant shall also include in the application a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

6. Security Protocols

Draft Proposed Regulations Article 4: Cultivation Site Requirements

8313. Environmental Protection Measures.

All licensees shall comply with the following environmental protection measures:

- (a) ...
- (b) All outdoor lighting used for security purposes shall be shielded and downward facing.

Background Check

26051.5. (a) An applicant for any type of state license issued pursuant to this division shall do all of the following:

- (1) Require that each owner of the applicant electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.
- (A) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.
- (B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.
- (C) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

26057.

- (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.
- (b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:
 - (1) Failure or inability to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow, water quality, and fish and wildlife.
 - (2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.
 - (3) Failure to provide information required by the licensing authority.
 - (4) The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:
 - (A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
 - (B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 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 selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
- (E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.
- (5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.
- (6) The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
- (7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked under this division in the three years immediately preceding the date the application is filed with the licensing authority.
- (8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
- (9) Any other condition specified in law.

APPENDIX C

Effect on the Health, Safety, or General Welfare.

SB 94 Section 13276. of the Water Code is amended to read:

- (a) The multiagency task force, the Department of Fish and Wildlife and state board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by cannabis cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on water quality and on fish and wildlife throughout the state.
- (b) The state board or the appropriate regional board shall address discharges of waste resulting from cannabis cultivation under Division 10 of the Business and Professions Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, the state board or the regional board shall include conditions to address items that include, but are not limited to, all of the following:
 - (1) Site development and maintenance, erosion control, and drainage features.
 - (2) Stream crossing installation and maintenance.
 - (3) Riparian and wetland protection and management.
 - (4) Soil disposal.
 - (5) Water storage and use.

(d) The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.

APPENDIX D

Environmental Protections Related to Indoor Commercial Cultivation

Draft Proposed Regulations Article 4: Cultivation Site Requirements

8315. Additional Environmental Protection Measure for Indoor Licenses.

Indoor license types of all sizes shall ensure that electrical power used for commercial cannabis activity shall be provided by any combination of the following:

- (a) On-grid power with 42 percent renewable source.
- (b) Onsite zero net energy renewable source providing 42 percent of power.
- (c) Purchase of carbon offsets for any portion of power above 58 percent not from renewable sources.
- (d) Demonstration that the equipment to be used would be 42 percent more energy efficient than standard equipment, using 2014 as the baseline year for such standard equipment.

Authority: Sections 19302.1, 19304, 19322, and 19332 Business and Professions Code and Section 11362.777, Health and Safety Code. Reference: Sections 19302.1, 19320, 19322, and 19332, Business and Professions Code.

APPENDIX E

Light Pollution

Draft Proposed Regulations Article 4: Cultivation Site Requirements

8314. Additional Environmental Protection Measure for Mixed-Light Licenses.

Mixed Light license types of all sizes shall ensure that lights used for cultivation are shielded from sunset to sunrise to avoid nighttime glare.

Authority: Sections 19302.1, 19304, 19322, and 19332 Business and Professions Code and Section 11362.777, Health and Safety Code. Reference: Sections 19302.1, 19320, 19322, and 19332, Business and Professions Code.

8313. Environmental Protection Measures.

All licensees shall comply with the following environmental protection measures:

- (a) ...
- (b) All outdoor lighting used for security purposes shall be shielded and downward facing.

APPENDIX F

Property Owner Approval

Draft Proposed Regulations Article 2: Applications

8103. Property Owner Approval

(a) If the applicant is not the owner of the property upon which the premises is located, the applicant shall provide the following to the Department:

(1) A document from the property owner that states the applicant has the right to occupy the property and acknowledges that the applicant may use the property for commercial cannabis cultivation;

APPENDIX G

Hazardous Materials

SB 94 Section 177. Section 13276 of the Water Code is amended to read:

(a) The multiagency task force, the Department of Fish and Wildlife and state board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by cannabis cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on water quality and on fish and wildlife throughout the state.

(b) The state board or the appropriate regional board shall address discharges of waste resulting from cannabis cultivation under Division 10 of the Business and Professions Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, the state board or the regional board shall include conditions to address items that include, but are not limited to, all of the following:

- (1) Site development and maintenance, erosion control, and drainage features.
- (2) Stream crossing installation and maintenance.
- (3) Riparian and wetland protection and management.
- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

Draft Proposed Regulations Article 4: Cultivation Site Requirements

8305. Cannabis Waste Management

(a) For the purposes of this Chapter, “cannabis waste” is waste that is not hazardous waste as defined in Section 40141 of Public Resources Code, and is solid waste, as defined in Section 40191 of Public

Resources Code, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed in subsection (e). A licensee may not sell cannabis waste.

(b) A licensee shall manage all waste that is hazardous waste, as defined in Section 40141 of Public Resources Code, in compliance with all applicable hazardous-waste statutes and regulations.

Section 40141 of Public Resources Code

(a) “Hazardous waste” means a waste, defined as a “hazardous waste” in accordance with Section 25117 of the Health and Safety Code, or a combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:

(1) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(b) Unless expressly provided otherwise, “hazardous waste” includes extremely hazardous waste and acutely hazardous waste.

Section 25117 of the Health and Safety Code

(a) Except as provided in subdivision (d), “hazardous waste” means a waste that meets any of the criteria for the identification of a hazardous waste adopted by the department pursuant to Section 25141.

(b) “Hazardous waste” includes, but is not limited to, RCRA hazardous waste.

(c) Unless expressly provided otherwise, “hazardous waste” also includes extremely hazardous waste and acutely hazardous waste.

(d) Notwithstanding subdivision (a), in any criminal or civil prosecution brought by a city or district attorney or the Attorney General for violation of this chapter, when it is an element of proof that the person knew or reasonably should have known of the violation, or violated the chapter willfully or with reckless disregard for the risk, or acted intentionally or negligently, the element of proof that the waste is hazardous waste may be satisfied by demonstrating that the waste exhibited the characteristics set forth in subdivision (b) of Section 25141.

Section 25141 of the Health and Safety Code

(a) The department shall develop and adopt by regulation criteria and guidelines for the identification of hazardous wastes and extremely hazardous wastes.

(b) The criteria and guidelines adopted by the department pursuant to subdivision (a) shall identify waste or combinations of waste, that may do either of the following, as hazardous waste because of its quantity, concentration, or physical, chemical, or infectious characteristics:

(1) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) Pose a substantial present or potential hazard to human health or the environment, due to factors including, but not limited to, carcinogenicity, acute toxicity, chronic toxicity, bioaccumulative properties, or persistence in the environment, when improperly treated, stored, transported, or disposed of, or otherwise managed.

(c) Except as provided in Section 25141.5, any regulations adopted pursuant to this section for the identification of hazardous waste as it read on January 1, 1995, which are in effect on January 1, 1995, shall be deemed to comply with the intent of this section as amended by this act during the 1995 portion of the 1995–96 Regular Session of the Legislature.

Draft Proposed Regulations Article 4: Cultivation Site Requirements

8313. Environmental Protection Measures.

All licensees shall comply with the following environmental protection measures:

(a) Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board.

(b) All outdoor lighting used for security purposes shall be shielded and downward facing.

(c) Immediately halt cultivation activities if human remains are discovered and implement Section 7050.5 of Health and Safety Code.

(d) The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.

(e) Compliance with pesticide laws and regulations as enforced by the Department of Pesticide Regulation.

(f) For all pesticides that comply with subsection (e) above and are exempt from registration requirements, licensees shall comply with the following pesticide application and storage protocols:

(1) Comply with all pesticide label directions;

(2) Store chemicals in a secure building or shed to prevent access by wildlife;

(3) Contain any chemical leaks and immediately clean up any spills;

(4) Apply the minimum amount of product necessary to control the target pest;

(5) Prevent offsite drift;

(6) Do not apply pesticides when pollinators are present;

(7) Do not allow drift to flowering plants attractive to pollinators;

(8) Do not spray directly to surface water or allow pesticide product to drift to surface water.

Spray only when wind is blowing away from surface water bodies;

(9) Do not apply pesticides when they may reach surface water or groundwater; and

(10) Only use properly labeled pesticides. If no label is available consult the Department of Pesticide Regulation.

Authority: Sections 19302.1, 19304, 19322, 19332, and 19332.2, Business and Professions Code and Section 11362.777, Health and Safety Code. Reference: Sections 19302.1, 19320, 19322, 19332, and 19332.2, Business and Professions Code. Section 12753 Food and Agricultural Code. Section 7050.5 Health and Safety Code. Section 13149 Water Code

APPENDIX H

Water Source and Water Discharge

SB 94 Legislative Council’s Digest

(15) Existing law requires the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife, to adopt principles and guidelines for diversion and use of water for cannabis

cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. Existing law authorizes the State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies to establish fees to cover the costs of their cannabis regulatory programs.

This bill would require an application for a license for cultivation to identify the source of water supply. The bill would require a license for cultivation to include additional requirements for compliance with the above-described provisions and to include in every license for cultivation a condition that the license is prohibited from being effective until the licensee has complied with provisions relating to a streambed alteration agreement or has received written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required. The bill would prohibit the Department of Fish and Wildlife from issuing new licenses or increasing the total number of plant identifiers within a watershed or area if the board or the Department of Food and Agriculture finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area. The bill would expand the authorization for the State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies to establish fees to cover the costs of their cannabis programs, regardless of whether the programs are regulatory.

(16) AUMA requires each California regional water quality board and authorizes the State Water Resources Control Board to address discharges of waste resulting from medical cannabis cultivation and adult-use cannabis cultivation.

This bill would require the state board or the appropriate regional board to address the discharges of waste resulting from cannabis cultivation.

(17) Existing law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream, or lake, without first notifying the Department of Fish and Wildlife of that activity, and entering into a lake or streambed alteration agreement if required by the department to protect fish and wildlife resources. Existing law exempts an entity from the requirement to enter into a lake or streambed alteration agreement with the department for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if the entity submits to the department the written notification, a copy of the license or renewed license, and the fee required for a lake or streambed alteration agreement, and the department determines certain requirements are met. Existing law authorizes the department to adopt regulations establishing the requirements and procedure for the issuance of a general agreement in a geographic area for a category or categories of activities related to cannabis cultivation that would be in lieu of an individual lake or streambed alteration agreement.

This bill would instead authorize the department to adopt general agreements for the cultivation of cannabis and would require the adoption or amendment of a general agreement to be done by the department as an emergency regulation. The bill would require any general agreement adopted by the department subsequent to adoption of regulations to be in lieu of an individual lake or streambed alteration agreement.

Draft Proposed Regulations Article 4: Cultivation Site Requirements

8313. Environmental Protection Measures.

All licensees shall comply with the following environmental protection measures:

(a) Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board.

8109. Water Source Supplemental Information

The following information shall be provided for the applicable water source(s):

(a) Retail water supply sources:

(1) If the water source is a retail supplier, such as a municipal provider, and meets the description in subdivision (a)(1)(A) of Section 19332.2 of the Business and Professions Code the applicant shall provide the name of the retail water supplier.

(2) If the water source is a small retail supplier, such as a delivery service, and is subject to subdivisions (a)(1)(B) and either (a)(2) or (a)(3) of Section 19332.2 of the Business and Professions Code:

(A) And if the contract is for delivery or pickup of water from a surface water body or an underground stream flowing in a known and definite channel, the applicant shall provide all of the following:

(i) The name of the contract water supplier;

(ii) The geographic location coordinates in either latitude and longitude or the California Coordinate System of any point of diversion used by the contract water supplier to divert water delivered to the applicant under the contract;

(iii) The authorized place of use for any water right used by the contract water supplier to divert water delivered to the applicant under the contract; and

(iv) The maximum amount of water delivered to the applicant for cannabis cultivation in any year.

(B) And if the contract is for delivery or pickup of water from a groundwater well, the applicant shall provide all of the following:

(i) The name of the contract water supplier;

(ii) The geographic location coordinates for any groundwater well used to supply water delivered to the applicant, in either latitude and longitude or the California Coordinate System;

(iii) The maximum amount of water delivered to the applicant for cannabis cultivation in any year; and TEXT OF PROPOSED REGULATIONS Page 15 of 56 (iv) A copy of the well log filed with the Department of Water Resources pursuant to Section 13751 of Water Code for each percolating groundwater well used to divert water delivered to the applicant. If no well log is available, the applicant shall provide a letter from the Department of Water Resources indicating that the Department does not have a record of the well log. If no well log is available, the State Water Resources Control Board may request additional information about the well.

(b) If the water source is a groundwater well, the applicant shall provide all of the following:

(1) The groundwater well's geographic location coordinates in either latitude and longitude or the California Coordinate System; and

(2) A copy of the well log filed with the Department of Water Resources pursuant to Section 13751 of Water Code. If no well log is available, the applicant shall provide a letter from the Department of Water Resources indicating that the Department does not have a record of the

well log. If no well log is available, the State Water Resources Control Board may request additional information about the well.

(c) If the water source is a rainwater catchment system:

- (1) The total square footage of the catchment footprint area(s);
- (2) The total storage capacity, in gallons, of the catchment system(s); and
- (3) A detailed description of the type, nature, and location of each catchment surface. Examples of catchment surfaces include a rooftop and greenhouse.

(d) If the water source is a diversion from a waterbody, the applicant shall provide any applicable statement, application, permit, license, or small irrigation use registration identification number(s); and either

- (1) A copy of any applicable registrations, permits, or licenses or proof of a pending application, issued under Part 2 (commencing with Section 1200) of Division 2 of the California Water Code as evidence of approval of a water diversion by the State Water Resources Control Board;
- (2) A copy of any statements of diversion and use filed with the State Water Resources Control Board before July 1, 2017 detailing the water diversion and use; or
- (3) A copy of documentation submitted to the State Water Resources Control Board before July 1, 2017 demonstrating that the diversion is authorized under a riparian right and that no diversion occurred in any calendar year between January 1, 2010 and January 1, 2017.

(e) If the water source is a diversion and the applicant has claimed an exception from the requirement to file a statement of diversion and use, the applicant shall provide a copy of the documentation submitted to the State Water Resources Control Board before July 1, 2017 demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of Water Code.

Authority: Sections 19302.1, 19304, 19322, 19324, and 19332.2 Business and Professions Code and Section 11362.777, TEXT OF PROPOSED REGULATIONS Page 16 of 56 Health and Safety Code. Reference: Sections 19322, 19332, and 19332.2, Business and Professions Code and Sections 5101 and 13751, Water Code.

APPENDIX I

Accessory Structures, Greenhouses, Hoop Houses

APPENDIX J

Residency/Moratorium

APPENDIX K

Track and Trace

SB94 Section 26067 (a) The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier pursuant to Section 26069, secure packaging, and is capable of providing information that captures, at a minimum, all of the following:

- (1) The licensee receiving the product.
 - (2) The transaction date.
 - (3) The cultivator from which the product originates, including the associated unique identifier pursuant to Section 26069.
- (b) (1) The department, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:
- (A) The variety and quantity or weight of products shipped.
 - (B) The estimated times of departure and arrival.
 - (C) The variety and quantity or weight of products received.
 - (D) The actual time of departure and arrival.
 - (E) A categorization of the product.
 - (F) The license number and the unique identifier pursuant to Section 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.
- (2) (A) The database shall be designed to flag irregularities for all licensing authorities in this division to investigate. All licensing authorities pursuant to this division may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.
- (B) The department shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.
- (3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.
- (4) The bureau shall have 24-hour access to the electronic database administered by the department. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.
- (5) The department shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the department.
- (6) Information received and contained in records kept by the department or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this division or a local ordinance.
- (7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this division.
- (a) The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier pursuant to Section 26069, secure packaging, and is capable of providing information that captures, at a minimum, all of the following:
- (1) The licensee receiving the product.
 - (2) The transaction date.
 - (3) The cultivator from which the product originates, including the associated unique identifier pursuant to Section 26069.
- (b) (1) The department, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:
- (A) The variety and quantity or weight of products shipped.

- (B) The estimated times of departure and arrival.
 - (C) The variety and quantity or weight of products received.
 - (D) The actual time of departure and arrival.
 - (E) A categorization of the product.
 - (F) The license number and the unique identifier pursuant to Section 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.
- (2) (A) The database shall be designed to flag irregularities for all licensing authorities in this division to investigate. All licensing authorities pursuant to this division may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.
- (B) The department shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.
- (3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.
- (4) The bureau shall have 24-hour access to the electronic database administered by the department. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.
- (5) The department shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the department.
- (6) Information received and contained in records kept by the department or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this division or a local ordinance.
- (7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this division.

Draft Cultivation Requirements: 8403. Track-and-Trace System User Requirements.

- (a) The licensee and any track-and-trace system administrator or user as identified by the licensee pursuant to Section 8401 (c) of this Chapter, shall enter all commercial cannabis activities in the track-and-trace system.
- (b) Each track-and-trace system administrator and user shall have a unique log-on, consisting of a username and password, which shall not be used by any other person.
- (c) It is a violation for any person to intentionally misrepresent or falsify information entered into the track-and-trace system.
- (d) The licensee shall monitor all notifications from the track-and-trace system and resolve all the issues included in the notification in the time frame specified in the notification. A licensee shall not dismiss a notification from the track-and-trace system until the licensee resolves the issues included in the notification.
- (e) Failure to comply with the requirements of this section may result in enforcement action, including revocation of the license.

Authority: Sections 19304, 19332, and 19335 Business and Professions Code and Section 11362.777, Health and Safety Code. Reference: Section 19335 Business and Professions Code.

APPENDIX L

Enforcement

Draft Cultivation Requirements Article 7: Enforcement

8600. Applicability.

Notwithstanding any other provision of law the Department may take a licensing or administrative action, at any time within five years after the Department discovers, or with reasonable diligence should have discovered any violation of state law or local ordinances.

Authority: Sections 19304 and 19332, Business and Professions Code and Section 11362.777, Health and Safety Code. Reference: Sections 19307, 19311, 19312, 19314, 19327, and 19332 Business and Professions Code.

APPENDIX M

Clear Cutting/Grading

Land Use and Development Code: Sec. L-II 4.3.15 Trees

A. **Purpose.** To minimize removal of existing trees and protect existing trees during construction. To encourage protection of trees to provide suitable habitat for native wildlife. To preserve and minimize the disturbance of landmark and heritage trees and groves from development projects through on-site vegetation inventories, mandatory clustering, and other measures necessary to protect such habitat. To maximize the long-term preservation, protection, and integrity of their natural setting.

B. **Definitions**

1. **Landmark Trees** - Any oak (Quercus species) 36+ inches at diameter breast height (dbh or 4' 6"), or any tree whose size, visual impact, or association with a historically significant structure or event has caused it to be marked for preservation by the County, State, or Federal government.
2. **Landmark Groves** - Hardwood tree groves with 33+% canopy closure, or groves whose size, visual impact, or association with a historically significant structure or event has caused it to be marked for preservation by the County, State, or Federal government.
3. **Heritage Trees And Groves** - A tree or a group of hardwood trees designated by the Board of Supervisors to be of historical or cultural value, outstanding specimens, unusual species, or of significant community benefit due to size, age, or any other unique characteristic and considered to be in good health.

C. **Standards.**

1. For all applicable projects, the applicant shall have a Biological Inventory prepared by a qualified biologist, to determine whether the habitat for the defined resource, or the resource itself may be affected by a proposed project.

2. Projects shall be approved only when they do not remove or disturb defined trees or groves, unless a Management Plan is prepared consistent with paragraph 3 below or other standards are met consistent with paragraph 3 below. Exempted from this standard shall be trees or groves determined to be dead, dying, or a public safety hazard by a certified professional arborist, licensed landscape architect, registered professional forester, or qualified biologist or botanist (referred to herein as a qualified professional). In addition, exemption shall apply to those trees that must be removed to ensure fire safe access or provide adequate fuel reduction as determined by the California Department of Forestry or local fire district. Tree removal may also be allowed where necessary to provide for site access and public utilities or public right-of-way.

3. If the above standard effectively precludes development of the project or a revised project, or adversely affects another environmentally-sensitive resource, a Management Plan shall be prepared by a certified arborist, registered forester, qualified biologist or botanist, or landscape architect. Said Plan shall evaluate the impact of the project on defined trees and groves and recommend project modifications that avoid or minimize impacts. Emphasis shall be placed on protecting groups of trees rather than individuals. Defined trees that must be removed shall be replaced on an inch for an inch replacement of the removed tree(s). The total of replacement trees shall be required to have a combined diameter of the tree(s) removed. The Plan shall provide for the long-term maintenance of the replacement trees.

Management Plans shall emphasize protection of two varieties of oak: Blue Oak (*Quercus Douglasii*) and Valley Oak (*Quercus Lobata*). Both are of very limited distribution in the County and considered to be sensitive plants worthy of special protection.

4. If impacts remain, or if the Planning Agency determines that the planting of replacement trees is infeasible or the project site is not capable of supporting all the replacement trees, the applicant shall pay to Nevada County the current market value of the tree removed and the value of the replacement trees (including the cost of planting and maintenance), as established by a qualified professional, to go into a Tree Preservation Fund. Fund monies received in lieu of replacement trees shall be used for the planting and maintenance of trees on publicly owned property, or for purchase of replacement habitat.

5. The above standards shall also apply in those instances in which it can be determined that a defined tree or grove has existed on site 3 years prior to project application. In such instances, standards under paragraphs 1, 2, and 3 above shall be implemented as though the trees or groves were still on-site.

6. Alternative standards to those above may be applied where the Planning Agency finds that the alternative standards have the same practical effect, further the intent of this Section, and provide equal or greater mitigation.

7. Protection of all trees and groves to be retained during and after project construction shall occur consistent with a Tree Protection Plan prepared by a qualified professional, as listed in C.1 above. Said Plan shall specify pre-construction and post-construction protection measures. Pre-construction measures shall identify a tree protection zone and protection type (typically fencing), specify work required prior to construction (pruning, bracing systems, mulch, pest management, irrigation, fencing installation), and construction plans. Post-construction protection measures and specifications shall detail specific protection requirements, i.e. water needs, monitoring, and maintenance to ensure long-term care.

8. Where the County determines that vegetation identified as an environmentally sensitive resource as defined by General Plan Policy 1.17, has been removed from the site in

anticipation of development, or, within one year prior to submittal of a land use application, the following shall be required:

Prior to issuance of any development permits (i.e., grading or building permits), the developer shall fund a native plant restoration program to return the site to a naturally-functioning habitat. If on-site restoration is not feasible, the restoration program shall include the identification of a suitable replacement site to be reviewed and approved of by the Nevada County Planning Agency. The restoration program shall include the hiring of a specialist, selected and contracted by the County, to (1) identify a suitable location or replacement site for the vegetation that has been removed, with the preferred location being the project site or within the vicinity of the site; (2) prepare a restoration, monitoring, and maintenance plan; (3) initiate the restoration; and (4) conduct a five-year maintenance and monitoring program. The developer shall record or cause to record, a conservation easement on the selected property to preserve the restored habitat in perpetuity. The applicant shall be responsible for incurring all costs associated with the restoration project. The restoration shall represent a 3:1 ratio of habitat restored to habitat lost.

9. **Tree Removal Near Nevada City.**

a. No person, firm or corporation shall remove or cause to be removed any tree located outside a Timberland Preserve Zone (TPZ) and within the Nevada City Sphere of Influence as adopted by the Local Agency Formation Commission without first obtaining a tree removal permit from the Planning Director, except those:

- 1) That have been identified for removal as part of a Use Permit, Development Permit or Subdivision.
- 2) That are on developed residentially-zoned property.
- 3) That have been identified by a licensed forester as being in a hazardous condition presenting an immediate danger to health and property.
- 4) Where the trunks measure less than 10 inches in diameter, measured 4 1/2 feet above grade and where less than 20% of the trees over 8 inches in diameter are proposed to be removed every 5 years.
- 5) Located on parcels aggregating 3 acres or more in size, subject to pre-emptive State regulations identified for commercial tree removal pursuant to an approved Timber Harvest Plan.
- 6) Located within a public or public utility right-of-way when such trees are to be removed by a public agency or public utility.

b. **Application Content.** A tree removal application shall include, but is not limited to, the following:

- 1) An inventory of on-site trees, including the percentage of trees over 10 inches in diameter to be removed, and the size, species and condition of each tree to be removed.
- 2) Statement of fact stating the purpose of the removal.
- 3) Size and species of any trees proposed to replace removed trees.

c. **Tagging Required.** Trees proposed for removal shall be identified by flagging, staking, painting or other suitable means not detrimental to the health of the tree that is readily visible for field inspection.

d. **Removal Standards.** A tree may be removed only when:

- 1) Dead or diseased beyond reclamation.
- 2) Crowded beyond good forestry practices.

- 3) Interfering with existing utilities or structures.
- 4) Obstructing existing or proposed improvement that cannot be designed to avoid tree removal.
- 5) Inhibiting sunlight necessary for solar access.
- 6) Any other reason that may be identified by the Planning Director based on a consultation with the recognized expert in the field including, but not limited to, a licensed landscape architect, forester or horticulturist. (Ord. 2090, 7/9/02)

Land Use and Development Code: Section L-V 11.3 Buildings/Landform Grading for Agriculture/Criteria

To qualify as other clearing and grading of land for agricultural operations that may be exempted from grading permit requirements pursuant to this Article, all of the following criteria must be met:

1. The land to be cleared and/or graded is zoned for agricultural use as:
 - a. "AG" (General Agriculture), or
 - b. "AE" (Agricultural Exclusive), or
 - c. "RA" (Residential Agriculture) where the parcel is 3 acres or more in size and the General Plan designation is Rural;
2. The clearing and/or grading is exclusively for agricultural purposes not associated with buildings that require a building permit;
3. Any vegetation removal or soil disturbance is outside any floodplain, watercourse, wetland or riparian area and any non-disturbance buffer for those areas as defined in Section L-II 4.3;
4. The work occurs on slopes of thirty percent (30%) or less;
5. The work does not disturb cultural resources;
6. Any excavated material remains on site, without changing the natural terrain or drainage and without creating any cuts or fills, except as follows:
 - a. The work, if associated with construction or maintenance of a pond for livestock raised on site, aquaculture or irrigation, does not create a dam that exceeds two feet in height above grade, an excavation in excess of six feet or a storage capacity of more than ten acre feet and results in no adverse hydrological impacts upon surrounding properties that are not mitigated to a level of insignificance, or
 - b. The work, if associated with construction of a farm or ranch road, is solely for the purpose of providing on-site access to water supplies, storage areas, grazing/crop lands or fence lines, does not service a structure requiring a building permit, and does not create a cut or fill greater than two feet in height;
7. Projects potentially impacting heritage oak groves or trees, as defined in LUDC Section L-II 4.3.15.B, and verified by a field inspection conducted by the Agricultural Commissioner or his/her agent, shall provide a management plan as defined in LUDC Section L-II 4.3.3.C Resource Standards. A Management Plan to mitigate the impacts of the proposed project on landmark trees or groves shall be required." An Agricultural Grading Exemption shall be denied to parcels or sites where these resources exist and no mitigation and/or avoidance is available through the Management Plan process.
8. To the extent possible, all work will be conducted between April 15th and October 15th to avoid the rainy season. Any work before April 15th or after October 15th of any year shall be permitted only if disclosed in the application and approved in the Permit Exemption. To secure

such approval, the applicant shall submit an erosion and sediment control plan, including an effective re-vegetation program to stabilize all disturbed areas, expressly approved in writing by a State Certified Professional Erosion and Sediment Control (CPESC). If grading occurs, or if the land is left open and unplanted during the period from October 15th to April 15th, all projects over 2,500 square feet on slopes over 15% in areas of moderate to high erosion potential as defined by the Soil Survey of Nevada County, shall have an Erosion and Sediment Control Plan expressly approved in writing by the State Certified Professional Erosion and Sediment Control (CPESC) and shall be implemented after October 15th, and maintained through April 15th.

9. Projects shall be in compliance with the RWQCB regarding Clean Water Act requirements, and all other applicable laws.

10. The following conditions of approval shall be applied to all projects approved through this agricultural grading exemption:

- a. The applicant shall be responsible for ensuring that all adequate dust control measures are implemented in a timely manner during all phases of the proposed project.
- b. Fugitive dust emissions resulting from site clearing shall be minimized at all times, utilizing control measures including dust palliatives, regularly applied water, graveled or paved roads, etc. Control measures shall be noted on grading plans.
- c. All land clearing, grading, earth moving, or excavation activities on a project shall be suspended to prevent excessive windblown dust when winds are expected to exceed 20 mph.

11. Verification of NSAQMD clearance shall be filed with the Agricultural Commissioner prior to any surface disturbance (including clearing and grubbing) associated with agricultural (or other) road construction in any of the sections listed in the table. Mapping of areas of ultramafic rock/serpentine occurrence within the project area shall be on file at the Agricultural Commissioner's office. In addition, if naturally occurring ultramafic rock/serpentine is discovered once grading for a road commences, the NSAQMD must be notified no later than the next business day and requirements in CCR, Title 17, Section 93105 must be implemented within 24 hours. (see http://qcode.us/codes/nevadacounty/view.php?topic=3-v-11-l_2&frames=off for the map of sections containing Ultramafic Rock/Serpentine)

Land Use and Development Code:

Sec. L-II 4.3.13 Steep Slopes/High Erosion Potential

A. Purpose. To preserve the natural, topographic, and aesthetic characteristics of steep slopes, and to minimize soil erosion, water quality impacts, earth movement and disturbance, and the adverse impact of grading activities, while providing for reasonable use of private property. (Ord. 2152, 5/25/04)

B. Definitions.

1. Steep Slopes - Slopes of (30+) %.
2. High Erosion Hazard Areas - Areas determined to have highly-erodible soils based on soils surveys prepared by the U.S. Soil Conservation Service and U.S. Forest Service.

C. Standards.

1. Development, including access, shall be approved only when not within the defined areas, except as provided in this Section.
2. Limited development is allowed on steep slopes, subject to a grading permit pursuant to Section L-V 3.25 of the Land Use and Development Code (Grading Ordinance). If the amount

of disturbance does not require a grading permit, limited development shall be subject to an Erosion and Sediment Control Plan, approved by the Building Department. Limited development shall mean the following:

- a. Utility trenching, including, but not limited to, water, electric, gas, sewer and phone lines.
 - b. Crop and tree planting.
 - c. Water wells and sewage disposal systems for allowed on-site uses.
 - d. No more than one single-family residence, including driveway access to the residence, is allowed within steep slopes, on a parcel legally created, or approved by the Nevada County Planning Agency, prior to October 12, 1981, subject to the issuance of a grading permit pursuant to Section L-V 3.25 of the Land Use and Development Code, and the following standards:
 - 1) Lot pad grading shall be limited in size to a maximum 5,000 square feet, to allow for the construction of the primary single-family residence, a garage, a yard, and parking area.
 - 2) Cut or fill slopes shall be designed and constructed to not exceed a vertical height of 10 feet.
 - 3) Slopes created by grading shall not exceed a ratio of 2:1 (horizontal to vertical), unless a steeper slope is certified by a geo-technical engineer to be stable.
 - 4) Structures are designed to “fit” or step up the natural slope by using split pads, stepped footings and grade separations.
 - 5) All outdoor light fixtures on steep slopes shall be fully shielded to prevent the light source of lens from being visible from adjacent properties and roadways. Mercury vapor light fixtures, floodlights and spotlights shall be prohibited.
 - 6) Driveway access shall comply with Article 3, Chapter XVI of the Nevada County Land Use and Development Code, Driveways.
3. If standard #1 effectively precludes development of the project or a revised project, disturbance within the defined area is allowed subject to the approval of a Management Plan, pursuant to Section 4.3.3.C of this Chapter, and the following:
- a. The Management Plan shall consist of an Erosion and Sediment Control Plan, prepared by a licensed geotechnical or civil engineer, engineering geologist, or certified soil erosion control specialist. The Plan shall comply with the erosion control standards of LUDC Chapter V: Buildings, Article 3: Uniform Building Code Amendments, and shall provide for, at a minimum, the structural control of flowing water and vegetative measures necessary to stabilize the soil surface. If the entire site is within a high erosion area, the Plan shall provide for the development of the project on the least sensitive portion of the site. Where seeding is deemed necessary in order to stabilize the soil surface, only native seed mixes shall be used. Where native seed mixtures are not available, then non-seed measures such as straw wattles, chips, erosion control blankets and weed-free straw shall be used.
 - b. The Management Plan shall be approved, provided the following findings can be made:
 - 1) That the proposed development ensures the preservation of the natural and topographic character of the slope; and
 - 2) The aesthetic quality of the slope is ensured, including the preservation of significant rock outcroppings and native plant materials; and

- 3) That alternatives to development on steep slopes are not feasible; and
- 4) That disturbance of steep slopes is minimized to the greatest extent possible; and
- 5) That water quality problems created by sedimentation and/or excessive vegetation removal are minimized.

4. All grading within the defined area that requires a grading permit shall include an evaluation by a registered geotechnical engineer who shall provide a written determination as to whether a design level, geotechnical investigative report is recommended. If recommended by the geotechnical engineer, a design level geotechnical investigative report, prepared by a registered geotechnical engineer, shall be included with the grading permit. The report shall include, but not be limited to, comments on slope stability, retaining wall design, foundation design, and other impacts associated with the disturbance of steep slopes. The report shall explain how the design of the project addresses those issues.

5. Fuel modification shall be provided and maintained around all structures developed on steep slopes, as follows:

Fuel Models

1-3*	Grasses	100'
4-6*	Brush	200'
8-13*	Timber	200'

APPENDIX N

Pesticides

SB94. Legislative Counsel’s Digest

(18) AUMA requires standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis to apply to licensed cultivators.

This bill would require the Department of Pesticide Regulation to develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis. The bill would prohibit a cannabis cultivator from using any pesticide that has been banned for use in the state.

(19) Under existing law, the Department of Pesticide Regulation generally regulates pesticide use. A violation of those provisions and regulations adopted pursuant to those provisions is generally a misdemeanor. AUMA requires the Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, to promulgate regulations that require the application of pesticides or other pest control in connection with cannabis cultivation to meet standards equivalent to certain provisions of existing law where the department generally regulates pesticide use.

This bill would instead require the Department of Pesticide Regulation to require that the application of pesticides or other pest control in connection with cannabis cultivation comply with the department’s general regulation of pesticide use. Because the violation of those provisions and regulations adopted pursuant to those provisions is a crime, this bill would impose a state-mandated local program.

SB94 Section 26060 of the Business and Professions Code is amended to read:

(a) (b) (c)...

(d) The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.

(e) A cannabis cultivator shall not use any pesticide that has been banned for use in the state.

(f) The regulations promulgated by the Department of Food and Agriculture under this division shall implement the requirements of subdivision(b) of Section 26060.1.

(g) The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor, outdoor, nursery, specialty cottage, or mixed-light cultivation of cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

8301. Cultivation Plan Requirements for Speciality Cottage, Specialty, Small and Medium Licenses.

The Cultivation Plan for Specialty Cottage, Specialty, Small and Medium licenses shall include the following information:

(a) A diagram showing all boundaries and dimensions in feet of the following proposed areas:

(1) (2) (3)...

(4) Designated pesticide and other agricultural chemical storage area(s);

8313. Environmental Protection Measures

(e) Compliance with pesticide laws and regulations as enforced by the Department of Pesticide Regulation.

(f) For all pesticides that comply with subsection (e) above and are exempt from registration requirements, licensees shall comply with the following pesticide application and storage protocols:

(1) Comply with all pesticide label directions;

(2) Store chemicals in a secure building or shed to prevent access by wildlife;

(3) Contain any chemical leaks and immediately clean up any spills;

(4) Apply the minimum amount of product necessary to control the target pest;

(5) Prevent offsite drift;

(6) Do not apply pesticides when pollinators are present;

(7) Do not allow drift to flowering plants attractive to pollinators;

(8) Do not spray directly to surface water or allow pesticide product to drift to surface water.

Spray only when wind is blowing away from surface water bodies;

(9) Do not apply pesticides when they may reach surface water or groundwater; and (10) Only use properly labeled pesticides. If no label is available consult the Department of Pesticide Regulation.

Authority: Sections 19302.1, 19304, 19322, 19332, and 19332.2, Business and Professions Code and Section 11362.777, Health and Safety Code. Reference: Sections 19302.1, 19320, 19322, 19332, and

19332.2, Business and Professions Code. Section 12753 Food and Agricultural Code. Section 7050.5 Health and Safety Code. Section 13149 Water Code.

APPENDIX O

Exemptions from Permit Requirements

SB 94 Section 26033

(a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this division.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this division.

APPENDIX P

Patient and Caregiver Considerations

SEC. 20.

Section 26033 is added to the Business and Professions Code, to read:

26033.

(a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this division.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this division.

Nevada County Cannabis Alliance

Priority B List Considerations

CAG Meeting #8

14C Commercial activities other than cultivation

This item moved to priority A via BOS Motion on 9/5/17 meaning that the CAG must consider this item.

- To support an economically sustainable cannabis industry it is recommended that the County permit all license types within the supply chain.
- Consider permits for manufacturing and testing labs, distribution facilities and processing facilities on properties zoned BP (Business Park), M1 (light industrial), M2 (heavy industrial) or PD (Planned Development).
- Consider permits for dispensaries on properties zoned BP, M1, M2, PD, C1 (Neighborhood Commercial), C2 (Community Commercial), C3 (Service Commercial). in light industrial and retail businesses in commercial.
- See Matrix Below

LAND USE (for non cultivation license types)	State License Types	C1	C2	C3	BP	M1	M2	IDR	PD	AG	FR
Manufacturing											
Non-Volatile Solvents	6	N/A	A	A	A	A	A	N/A	A	A	A
Volatile Solvents	7	N/A	A	A	A	A	A	N/A	A	A	A
Testing Labs											
Testing Labs	8	N/A	A	A	A	A	A	N/A	A	A	A
Processing											
Processing	P	N/A	A	A	A	A	A	N/A	A	A	A

Distribution											
Distribution	11	N/A	A	A	A	A	A	N/A	A	A	A

8B - Limiting Permit Counts

- Limiting permit count is strongly discouraged. It is important to encourage people to join the regulated system to prevent black market activity in Nevada County. Limiting permit counts will only serve to support the black market. In addition, the more permits that are offered, the more problems with unregulated grows are resolved. Farmers who have local permits and apply for state licenses will be required to:
 - Apply to the controlling state water agencies for approval
 - Secure a seller's permit and pay taxes.
 - Assure that the permitted property is compliant with county codes.
 - Prepare and present security plans..
 - Adhere to pesticide regulations.
 - Comply with Department of Fish and Wildlife regulations.
- The best way to start solving problems with cannabis in our community is to permit all farmers that are willing to move into the regulated market.
- Allowing maximum number of local applicants will prevent undue strain on County Social services by preventing small family farmers from being forced into homelessness and unemployment. Many local small farmers depend on the cannabis industry for income and housing. Preventing local farmers from applying for State licenses by denying local permits will have an immediate negative impact on Nevada County resources due to increases in homelessness and unemployment for potentially hundreds if not thousands in Nevada County, not to mention the indirect impact on the hundreds of local businesses who serve those in the cannabis economy.

9B - Personal Cultivation Requirements

- Personal Cultivation of up to 6 plants is allowed by state law; both indoor and or outdoor should be allowed. Any additional restrictions placed on this right by local governments must be reasonable and not overly burdensome. Unless there is a compelling health and public safety argument for any requirements for personal grows the local jurisdiction should not interfere.

- Any permitting requirement for personal grows is highly discouraged. Based on the past two elections it can be assumed that a large number of Nevada County citizens may wish to exercise the right to grow their 6 plants. The financial and manpower burden on county staff to administer a permitting program is unwarranted.
- Due to the environmental impact and fire danger associated with indoor cultivation the CAG should consider reasonable authorization for **outdoor** cultivation of up to 6 plants of personal use.
- True medicinal cannabis is organic and sungrown. Patients growing for their personal use have limited income and limited appropriate indoor space. We recommend outdoor cultivation as the best option for personal medicinal cultivation.

10B - Transition Program

- Provide grace period for non-cannabis related violations to come into compliance without withholding local permits and the ability to apply for state a license.
- New state and county regulations will create tremendous change and disruption to county government and the existing industry. These changes cannot happen overnight.
 - To reduce impacts on the cannabis industry and local regulators, the Alliance recommends establishing a minimum of a three-year transition period to achieve compliance with local code requirements.
 - Humboldt developed a transition period using a provisional approach. This means that each county permit for a cultivation license is issued with conditions relative to existing code violations. Each condition has a timeline depending on the severity of the violation and the impact on public health and safety.
 - It is important to consider that certain code upgrades can only occur at certain times of the year. Thus, there is natural barrier which cannot be overlooked when considered the amount of years it may take for some to upgrade their land.
 - During this transition period, businesses will be allowed to apply for local permits and state licences.
 - In the Alliance survey, 77 percent of respondents said 'yes' they would work toward compliance if a transition period is enacted.
 - With a 3 year transition period 95 percent of people surveyed are confident that they can comply.
 - If the transition period is reduced to 1 year the confidence plummets to 19 percent.

- 66 percent said they would invest money to become compliant with local and state regulations, and an additional 30 percent indicated they needed more information about local regulations before investing in compliance.

11B - Permit tier/layering with zoning and parcel size

- Consider cultivation permits in properly zoned areas (AG, ResAg, Forestry) at parcels with a legal residence.
- No commercial activity in R1, R2, R3.

12B Residence Requirement

- Consider the requirement of a permitted residence on the cultivation property to address safety, supervision and local ownership controls.
- If residency is going to be a requirement, consider a transition period of at least 3 years for farmers to build their structure.

15C Taxation /revenue

- It is highly recommended that taxes are looked at from a cumulative approach with consideration of the taxes that will be required on the state level.
- Overtaxing can disincentivize small, local businesses from entering into the legal market. High taxes are often only feasible for the larger and well funded organizations. It is important that our tax structure encourages participation.
 - Prop 64, which legalization Cannabis in CA last November, *included high state taxes*. There is a mandatory 15% excise tax on top of a cultivation flower and leaf tax. Taxes are simply too high at the state level.
 - In addition, product is also taxed at the production and distribution points as well as the dispensary level.
- It is recommended for cultivation tax to be based on gross receipts versus square footage.
 -
- Consideration of tax exemptions for cooperative farming and processing to encourage and incentivize local businesses.
- Consider tax exemptions for non-profit commercial farming.
- One of the overall goals for a cannabis ordinance in Nevada County is to decrease the amount of black market and unregulated activity. We have an opportunity via an effective tax structure to have a system that encourages participation with lower tax rates that are friendly to small businesses.
- Recommendations
 - Taxes for **cultivation** is recommended based on gross receipt or square footage.

- Taxes for **processing** is recommended at based on gross receipts.
- Taxes for **manufacturing** is recommended based on gross receipts.
- Taxes for **distribution** is recommended based on gross receipts.
- Taxes for **testing labs** are recommended to be transactional (ie: flat rate per test)

16C Enforcement

- With the passage of AUMA, cannabis is now legal. With this designation it is important to treat code violations similarly as other land use violations. Enforcement activities on permitted cultivation sites should be handled by the Community Development Agency. Enforcement of criminal activities should be handled by law enforcement.
- We strongly recommend the county creates a Cannabis Licensing Department. Law enforcement would be responsible for enforcement of non-licensed, criminal activity. Enforcement of non-criminal grows should be managed by non-law enforcement personnel such as a code officer within the Ag, Building and/or Planning, Environmental Health Departments.
- State penalties will be enforced for cultivation without a license and the county may impose local fines sufficient to deter non-compliant behavior.
- Local fines and fees should be determined by first taking into account the Administrative Actions outlined in the state regulations. Before determining local fees it would be reasonable to study and review the state fines,
- Local fines then should reflect offenses that are unique to the county and not covered by state regulations.

17C Additional Code Requirements

- All new structures used or intended for cannabis licensed business activity shall submit complete construction plans and obtain permits. All electrical, mechanical, and plumbing used for cannabis commercial activity shall be installed with valid electrical, mechanical, and plumbing permits.
- All structures intended for indoor cultivation shall be up to commercial building code standards. Indoor facilities are as defined by state regulations.
- Accessory structures: hoop houses, cold frames and other temporary structures are recommended to follow county agricultural code for existing like uses.
 - Maintain parity with other like commercial uses while maintaining public health and safety standards.
- Accessory Structure: Greenhouses, Lathouses, and Other Permanent Structures are recommended
 - Follow county agriculture code for existing like uses

- Accessory Structure: Drying and Curing Shed, Processing or Other Facilities:
 - Recommendation for all accessories structures intended for the expressed purpose of drying and curing and should be up to building codes. However, those sheds whose sole use is by owner operators should not be required to meet commercial codes.
 - Exception for owner operators is predicated on facilities being inaccessible to the public or by employees, therefore not requiring strict and expensive safety requirements.