

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

Notice is hereby given that the Bureau of Cannabis Control (Bureau), formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation, proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

All of the proposed text sections and documents incorporated by reference are proposed to be added to the California Code of Regulations under Division 42 of Title 16.

PUBLIC HEARINGS SCHEDULED

The Bureau will be holding public hearings at the dates, times, and locations listed below at which time any person interested may present statements or arguments orally or in writing relevant to the action proposed. The locations listed below are wheelchair accessible. At the hearings, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Bureau may need to set a time-limit for each comment. Persons who make oral comments at a hearing may also submit a written copy of their testimony at a hearing.

1. August 7, 2018, 10 a.m. to 12:00 p.m.

Hilton Oakland Airport, One Hegenberger Road, Oakland, CA 94621

2. August 14, 2018, 10 a.m. to 12:00 p.m.

Millennium Biltmore Hotel, 506 South Grand Avenue, Los Angeles, CA 90071

3. August 27, 2018, 10 a.m. to 12:00 p.m.

Tsakopoulos Library Galleria, 828 I Street, Sacramento, CA 95814

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Bureau. Written comments, including those sent by mail or e-mail to the addresses listed below, **must be received by the Bureau at its office not later than 5:00 p.m. on August 27, 2018** or must be received by the Bureau at a hearing.

Submit comments to:

Lori Ajax, Chief
Bureau of Cannabis Control
2920 Kilgore Road
Rancho Cordova, CA 95670
E-mail: BCC.comments@dca.ca.gov

AUTHORITY AND REFERENCE

Business and Professions Code section 26013 authorizes the Bureau to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) at Business and Professions Code section 26000 et seq.

BACKGROUND

The Medical Cannabis Regulation and Safety Act (MCRSA) was established through a series of bills passed by the California State Legislature in 2015 and 2016. (Bus. & Prof. Code, § 19300 et seq.) The MCRSA established the Bureau (known in that legislation as the Bureau of Medical Cannabis Regulation) under the California Department of Consumer Affairs and created California's first framework for the licensing, regulation, and enforcement of commercial medicinal cannabis activity. The Bureau held multiple pre-regulatory meetings in late summer/early fall of 2016 and proposed regulations under the MCRSA in April and May of 2017. The Bureau also held regulatory hearings for the proposed MCRSA regulations, which were withdrawn in September of 2017.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was established with the passage of Proposition 64, a voter initiative, in November 2016. The AUMA legalized the nonmedicinal adult use of cannabis; established California's framework for the licensing, regulation, and enforcement of commercial nonmedicinal cannabis activity; and set a date of January 1, 2018, for the Bureau to start issuing licenses.

In June 2017, the California State Legislature passed a budget trailer bill, Senate Bill 94, that integrated MCRSA with AUMA and created the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). (Bus. & Prof. Code, § 26000 et seq.) Under MAUCRSA, a single regulatory system will govern the cannabis industry (both medicinal and adult-use) in California. Under MAUCRSA, the Bureau is charged with the licensing, regulation, and enforcement of the following types of commercial cannabis businesses: distributors, retailers, microbusinesses, temporary cannabis events, and testing laboratories, MAUCRSA provides that the Bureau must begin issuing licenses on January 1, 2018.

On January 1, 2018, the Bureau began issuing licenses for medicinal and adult-use cannabis activities relating to retail, distribution, microbusiness, testing laboratories, and cannabis events. These licensed commercial cannabis businesses are in operation under the emergency regulations adopted on December 7, 2017 and readopted on June 6, 2017.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific licensing and enforcement criteria for commercial cannabis businesses, including: distributors, retailers, microbusinesses, temporary cannabis events, and testing laboratories. These proposed regulations would inform the applicants for licensure of the applicable meaning of key statutory terms; identify the documents and supplemental information required in an application for licensure; and provide specific clarification of terms, prohibitions, or conditions for compliance with MAUCRSA for their particular license type. Chapter 1 of these proposed regulations contains general provisions that apply to all license types, entitled All Bureau Licensees. Chapter 2 applies to distributors, Chapter 3 applies to retailers, Chapter 4 applies to microbusinesses, Chapter 5 applies to cannabis events, Chapter 6 applies to testing laboratories, Chapter 7 contains the enforcement provisions, and Chapter 8 contains other provisions, including research funding provisions.

The proposed regulations are necessary to implement the MAUCRSA and are based on extensive research and outreach by the Bureau. This included: guidance provided from subject matter experts, including: the University of California Davis Agricultural Issues Center and the California Department of Pesticide Regulation; scientific resources; former federal guidance related to cannabis activity; and information from other states who have legalized cannabis activity, such as Oregon, Colorado, Washington, Alaska, and Nevada. The Bureau has also reviewed and considered all comments received on its proposed MCRSA regulations and the MAUCRSA emergency regulations. Based on all of the research conducted and information received, the Bureau has determined that the specific provisions of the proposed regulations are necessary to effectively implement the MAUCRSA.

License Designations – “A” and “M” Commercial Cannabis Activity

In these regulations, the Bureau, along with the Departments of Food and Agriculture and Public Health, propose to allow licensees to conduct business with each other irrespective of their designation as adult-use (A-designated) and medicinal (M-designated) licenses. This allowance will prevent the need for licensees to obtain both an A-designated and an M-designated license and pay twice the license and application fees for the same premises if they wanted to transact both lines of business. These proposed regulations would streamline commerce and reduce paperwork by requiring applicants to obtain a single license and pay one license fee in order to conduct A-designated and M-designated business in one location.

While the MAUCRSA contains a number of requirements for commercial cannabis activity, only a small number of differences exist between A-designated and M-designated licenses – differences that arise only at the customer point of sale. The A-designation or M-designation does not otherwise impact the cannabis cultivation or supply chain. For instance, a retailer must have a license with an M-designation to sell cannabis goods to an individual between 18 and 21 years of age who has a physician’s recommendation. (Bus. & Prof. Code, § 26140, subd. (a).) Similarly, in order to sell cannabis products of a particular per-package THC limit, a retailer must have an M-designated license. (Cal. Code Regs., tit. 17, § 40306.) Indeed, all of the differences between A-designated and M-designated licenses relate only to the retail sale of cannabis goods to adult-use customers versus medicinal customers.

History of the Separate Adult-Use and Medicinal Licenses

Initially, in the emergency regulations adopted on December 7, 2017, the licensing authorities determined that during a transitional period from January 1, 2018 through June 30, 2018, it was necessary to allow A-designated and M-designated licensees to conduct business with each other irrespective of the designation because the adult-use market was new and there would be no place to obtain cannabis goods except for from the existing medicinal market. Following the transitional period, the licensing authorities had prescribed the requirement that A-designated licensees could only do business with other A-designated licensees and M-designated licensees could only do business with other M-designated licensees. For instance, a cultivator with an M-designated license could only sell to a retailer who also possessed an M-designated license.

After noticing the initial emergency regulations, the licensing authorities received feedback from licensees, potential licensees, and the Cannabis Advisory Committee that the transition period should be extended, or the provision allowing licensees to do business with other licensees regardless of the A-designation or M-designation should be made permanent. Licensees have expressed concerns that if the supply chains are separate for A-designated and M-designated licensees, either supply chain could end up with a shortage or an excess of cannabis goods. In either scenario, licensees and customers may be encouraged to turn to the illicit market to either divert excess cannabis goods or to purchase cannabis goods.

Of note, since the commercial cannabis market began on January 1, 2018, the licensing authorities have not been made aware of any public health or safety threat that has been created during the transitional period as a result of allowing commercial cannabis activity between the market designations. Additionally, requiring two separate licenses for the same activity on the same premises means that licensing authorities must require two applications as well as duplicates of other items, such as the bond required by Business and Professions Code section 26051.5 (a)(10). This inefficient duplication increases costs for the licensing authorities and the licensees. Further, the number of licensed cannabis businesses is still relatively low when compared to the number of businesses in operation before January 1, 2018. The reasons for this are varied, but a substantial contribution is due to the lack of locally-available licenses; many jurisdictions are still developing their local cannabis programs.

Based on feedback from stakeholders and the Cannabis Advisory Committee, the licensing authorities have further reviewed the MAUCRSA and have determined that it should be implemented in a manner that allows licensees to buy or sell cannabis or cannabis products to each other irrespective of their A-designation or M-designation. Business and Professions Code section 26053 (a) states that all commercial cannabis activity shall be conducted between licensees. However, nothing in the MAUCRSA expressly states that A-designated licensees may only do business with other A-designated licensees or that M-designated licensees may only do business with other M-designated licensees. Further, Business and Professions Code section 26013 (c), which provides direction to licensing authorities and states that regulations shall not “make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson.” The licensing authorities have determined that there is a high likelihood that requiring the A-designated and M-designated supply chains to remain separate will perpetuate, rather than reduce and eliminate, the illicit market for cannabis. Licensees that are unable to acquire cannabis goods or sell their cannabis goods because of under

saturation or over saturation of cannabis goods within their supply chain would be placed in a position where they determine that the requirement of complying with a separate supply chain for A-designated and M-designated cannabis goods is so onerous that continuing to operate under their cannabis license is not worthy of being carried out. When the Bureau readopted its emergency regulations, the Bureau allowed for licenses with both designations. This has stream lined the process and reduced costs for most licensees with both designations.

Continuing to issue licenses with an A-designation and M-designation, and allowing licensees to conduct business with other licensees regardless of the A-designation and M-designation is necessary to avoid increased costs due to the duplication of applications and allows licensees the ability to procure and sell product based on the commercial cannabis market's demands. This is consistent with Business and Professions Code section 26050, subdivision (b), which requires licensing authorities to affix an A or M on each license. Nothing in that section prohibits licensing authorities from affixing both designations, and indeed it expressly provides that, with limited exceptions stated in statute, "the requirements for A-licenses and M-licenses shall be the same." (Bus. & Prof. Code, § 26050, subd. (b).) While licensing authorities do not have discretion to require testing laboratories to have separate A-designated and M-designated licenses, the entities are exercising their discretion to permit the holders of other license types to fill out one application, pay one license fee, and obtain one license rather than insisting on the formality of two licenses, particularly when there are virtually no distinctions between A-designated and M-designated licenses identified by statute. Where MAUCRSA or local ordinances require such a distinction to be made, the Bureau will require an M-designation or A-designation, as appropriate.

Chapter 1: All Bureau Licensees

The Bureau was established to create a comprehensive and coherent regulatory framework for an established industry that has not been regulated by the State. While MAUCRSA provides guidance on the larger macro issues, much of the implementation specifics and clarification of terms were left to the Bureau. These proposed regulations would help applicants and licensees better understand: (1) the applicable meaning of key statutory and other terms related to the Bureau's licensing program; (2) what documents and information are required in an application for licensure; and (3) specific clarification of prohibitions, requirements, or conditions for compliance with MAUCRSA.

Article 1

Article 1 of the proposed regulations would make clear the applicable meaning of key statutory terms and other terms used within the proposed regulations. These terms include those relevant to the requirements of licensees, such as "cannabis waste," "limited-access area," "medicinal cannabis patient," and "retail area."

Article 2

Article 2 of the proposed regulations would clarify what information and documents are required to complete an application for all license types. This information would include contact information, social security or individual tax payer identification number, the location of the proposed business, and the type and designation of the license requested. Within MAUCRSA,

the Legislature recognized the current medical cannabis goods marketplace and provided for the issuance of temporary licenses that would allow an applicant, who has been approved by the local jurisdiction, to conduct commercial cannabis activity, to operate while they gather the required items for a complete application and while their application is reviewed by the Bureau. The MAUCRSA also provided for priority review of applications for those applicants that were in operation prior to September 1, 2016. The proposed regulations would further explain, specifically, what would be required to demonstrate the pre-conditions set out in MAUCRSA for priority review.

The MAUCRSA expressly requires an applicant to provide certain information to the Bureau for processing, including a valid seller's permit issued by the California Department of Tax and Fee Administration, proof of property owner approval for commercial cannabis activity, proof of surety bond, proof of a labor peace agreement if applicable, and fingerprint submission to the Department of Justice. The proposed regulations would further specify what must be submitted to the Bureau related to these items as well as what additional information is required. The proposed regulations would specify that if an applicant submits a license, permit, or other authorization from a local jurisdiction where the premises will be located, then the Bureau will notify the contact person from the local jurisdiction and if the local jurisdiction does not respond within 10 calendar days, the Bureau may approve the application. The proposed regulations would also specify what forms must be used for the applicants standard operating procedures.

The proposed regulations would clarify that applicants shall have, at a minimum, one individual that meets the definition of "owner" under MAUCRSA and would clarify what a "financial interest" in a commercial cannabis business means. The proposed regulations would also clarify that certain individuals, such as persons employed by the State of California are prohibited from holding a license when the duties of their employment have to do with the enforcement of MAUCRSA or any other penal provisions of law of this State prohibiting or regulating the sale, use, possession, transportation, distribution, testing, manufacturing, or cultivation of cannabis goods. The proposed regulations would also prohibit persons in district attorney's offices and law enforcement agencies from holding a license.

The proposed regulations would clarify what the premises diagram must show. The proposed regulations would clarify what is required to demonstrate that a landowner has approved use of the premises for commercial cannabis activity. The proposed regulations would allow an electronic signature on any document submitted to the Bureau. The proposed regulations would also specify the amount of the bond that applicants must have to cover the cost incurred for the destruction of cannabis goods necessitated by a violation of MAUCRSA or the regulations adopted thereunder. The proposed regulations would also specify that applicants or licensees that fall within the scope of sovereign immunity that may be asserted by a federally recognized tribe or other sovereign entity must agree to a limited waiver of sovereign immunity.

The proposed regulations would clarify that applicants must provide proof that their premises is exempt from further review under or otherwise in compliance with the California Environmental Quality Act (CEQA). The proposed regulations would specify what documents may be submitted by an applicant to demonstrate proof, and would provide clarity regarding the Bureau's process for reviewing previously prepared environmental documents. The proposed regulations would also specify what an applicant may do if a project is considered exempt from further

environmental review pursuant to CEQA, and that if the Bureau determines that a project does not qualify for an exemption, then the applicant will be responsible for the costs of preparation of an environmental document.

The proposed regulations would specify that the Bureau may request additional information from the applicant so that the Bureau will have all the necessary information to appropriately evaluate the application for licensure. The proposed regulations would clarify that incomplete applications are abandoned after a specified length of time and that applications may be withdrawn before the Bureau issues or denies a license.

Article 3

Article 3 of the proposed regulations would provide clarification of special conditions, terms, prohibitions, or requirements, set forth in MAUCRSA that apply to all license types. Specifically, the proposed regulations would clarify the annual license fee for each license type depending on the size of the business. The proposed regulations would also specify how the license fee can be paid. The proposed regulations would clarify the requirements for priority licensing. Additionally, the proposed regulations would clarify which offenses are substantially related to the qualifications, functions, or duties of the business for which licensure is sought and would clarify the criteria for the Bureau to consider in determining whether an applicant that has been sufficiently rehabilitated and is therefore suitable for licensure. The proposed regulations would also provide the specific criteria under which a license can be denied, how the Bureau will notify the applicant that the application was denied, and what the applicant must do to contest the denial.

The proposed regulations would clarify how the Bureau will evaluate whether an excessive concentration of licenses exists in the area of a proposed premises, during application review. The proposed regulations would clarify how a license is renewed and when a license must or may be cancelled. Additionally, the proposed regulations would specify when the Bureau must be notified of certain business modifications, and when those modifications require a new application or just notification to the Bureau. The regulations would clarify what happens to the license when an owner of the commercial cannabis business dies, becomes unable to perform the duties associated with the license due to incapacity, or becomes insolvent.

The proposed regulations would specify requirements for the premises, including requiring each premises to have a distinct street address or suite number and prohibiting the sale or delivery of cannabis goods to anyone in a motor vehicle except in certain cases where a drive-in or drive-through has been permitted. The proposed regulations would also specify that alcohol shall not be stored or consumed on a premises. Additionally, the proposed regulations would specify that any premises adjacent to another premises engaging in manufacturing or cultivation shall be separated from those premises by walls, and any doors leading to the cultivation or manufacturing premises shall remain closed.

The proposed regulations specify that a licensed premises must not be within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued and under what circumstances an exemption may be allowed. The proposed regulations would also specify that a licensee cannot make a physical modification that materially or substantially alters the licensed premises from the

premises diagram last filed with the Bureau and clarifies what material or substantial changes are. Further, the proposed regulations would specify that a licensee may not sublet a portion of the licensed premises.

The proposed regulations would provide that a licensee is responsible for the acts of an agent, officer, or other person acting for or employed by the licensee. The proposed regulations would specify that licensees shall not employ or retain persons under 21 years of age. The proposed regulations would clarify that all commercial cannabis activity must be conducted between licensees. The proposed regulations would specify inventory storage requirements and would also clarify what a significant discrepancy in inventory is. The proposed regulations would also specify when a licensee must notify the Bureau of criminal acts, civil judgements, administrative orders or civil judgments related to the violations of labor standards, revocation of a local license, permit, or other authorization, and theft or loss of cannabis goods.

The proposed regulations would specify which business records must be kept, how long they must be kept, and in what manner they must be kept. The proposed regulations would also specify what a licensee may do in case of a disaster, such as a fire or flood.

Article 4

Article 4 of the proposed regulations contains requirements for posting and advertising. The proposed regulations would specify that the licensee must post the license at the licensed premises and clarify where the license must be displayed. The proposed regulations would specify where and when advertising or marketing placed in broadcast, cable, radio, print, and digital communications are allowable as well as specifying that the licensee shall only display advertising or marketing where a licensee has obtained reliable, up-to-date audience composition data. The proposed regulations would also prohibit the use of any depictions or images of minors under 18 years of age and the use of objects, such as toys, or cartoon characters that are likely to be appealing to minors under 18 years of age. The regulations would prohibit advertising of free cannabis goods, including buy one get one free, free product with donation, contests, sweepstakes, and raffles. The proposed regulations would specify advertising requirements at temporary cannabis events and would define “reliable up-to-date audience composition data.” The proposed regulations would also specify that any advertising or marketing involving direct, individualized communications must utilize a method of age affirmation to verify that the recipient is 21 years of age or older.

Article 5

Article 5 of the proposed regulations contains minimum-security requirements that would apply to all licensees. The minimum-security requirements would include a requirement that visitors to a licensed premises be escorted by the licensee or an employee while in the limited-access areas of the premises and would require that employees of the licensee wear identification badges. The proposed regulations would also specify that licensees must use video surveillance systems and would provide the requirements for video surveillance. The proposed regulations would also specify that licensees must ensure that the limited-access areas can be securely locked using commercial-grade, nonresidential door locks and that licensees must use an alarm system at the licensed premises. The proposed regulations would also include a requirement that a retail

licensee shall hire or contract for security personnel to provide security services for the licensed premises.

Article 6

MAUCRSA requires that all cannabis goods be tracked throughout the supply chain. Article 6 of the proposed regulations would specify the requirements for using the track and trace system and reporting the movement of cannabis goods in the system. The proposed regulations would also specify that licensees must reconcile the physical inventory of cannabis goods at the premises with the track and trace records at least once every 14 days. The proposed regulations would also clarify the track and trace requirements for licensees operating under a temporary license, and those in operation at the time of licensure. The proposed regulations would also clarify what a licensee must do if the track and trace system cannot be accessed and the information that must be entered.

Article 7

Article 7 of the proposed regulations would specify how shipments must be accepted or rejected and when returns of cannabis goods are permitted. The proposed regulations would also specify how cannabis waste is to be managed. The proposed regulations would also allow returns of defective products between licensees.

Article 7 is necessary to ensure that returns are limited to only defective products to protect consumer safety and to ensure that returned products are destroyed appropriately to minimize diversion and to ensure that cannabis waste is handled in compliance with state law related to waste. This will assist with public safety by limiting opportunity for cannabis goods to be diverted into the illegal market at the time of disposal or destruction.

Chapter 2: Distributors

The proposed distributor regulations would accomplish three goals: (1) ensuring cannabis goods are properly stored, handled, packaged, and tested; (2) ensuring distributors keep and maintain records that are adequate to effectively track and trace the cannabis goods, thereby assuring that cannabis goods are safe for use by the consumer prior to distribution for retail sale; and (3) ensuring cannabis goods are transported in a safe and secure manner.

First, the proposed regulations would clarify that a distributor may distribute and store cannabis goods, cannabis accessories, and licensees' branded merchandise or promotional materials from the licensed premises. The proposed regulations would specify that live plants may not be stored on the premises. The proposed regulations would require that cannabis goods are properly stored, handled, packaged, and tested. The proposed regulations would allow a distributor to package, re-package, and label or re-label cannabis in the form of dried flower or pre-rolls for a licensee. However, the proposed regulations would prohibit a distributor from accepting cannabis goods that have not already been packaged by the manufacturer who manufactured the products, unless the distributor also holds a manufacturing license and is packaging, re-packaging, labeling, or re-labeling its own manufactured cannabis products. The proposed regulations would specify that the net weight on any package of dried flower shall not be considered inaccurate if the actual weight is within plus or minus 2.5% of the labeled weight. The proposed regulations would also

clarify the logistics for laboratory testing and would require the sampling to be recorded on video and that the distributors to witness the sampling in person. The proposed regulations would clarify when a batch “passes” laboratory testing and when it “fails.” The proposed regulations would specify the steps a distributor must take in conducting final quality- assurance review prior to transporting the cannabis goods to retailers.

Second, the proposed regulations would specify that distributors maintain commercial general liability insurance in the aggregate in an amount no less than \$2,000,000 and in an amount no less than \$1,000,000 for each loss. The proposed regulations would also specify that distributors must conduct inventory reconciliation at least once every 14 days and keep and maintain records specific to distribution and quality-assurance.

Third, the proposed regulations would clarify the requirements for the transportation of cannabis goods. The proposed regulations would require that a distributor shall have a completed sales invoice or receipt and shall only transport cannabis goods listed on the receipt, which may not be changed after transport begins. The proposed regulations would also require that cannabis goods are not visible or identifiable during transport, that the cannabis goods are only transported by vehicle, require the cannabis goods to be in a secure locked box within the interior of the vehicle, require the vehicle to be attended at all times in residential neighborhoods, and require all transport vehicles to be equipped with alarm systems. The proposed regulations would specify that certain transport vehicle information must be provided to the Bureau and would set the minimum age for persons in commercial transport vehicles at 21 years of age. The proposed regulations would also require a distributor to submit a shipping manifest to the Bureau and the licensee receiving the cannabis goods prior to transport, and would specify what information a shipping manifest must contain. The proposed regulations would also specify a distributor transport only license which would allow the holder to exercise certain privileges related to transport only. The fees for a distributor transport only license would depend on whether the licensee would transport only the licensee’s product or product for other licensees.

Chapter 3: Retailers

The proposed regulations would specify which individuals may access the retailer premises and retail area. The proposed regulations would require that individuals only be granted access to the retail area to purchase cannabis goods after the licensee has verified that the individual is at least 21 years old, or that the individual is at least 18 years old and possesses a valid physician’s recommendation. The regulations would specify that a retailer confirm the age and identity of the customer. The proposed regulations would clarify the hours a retailer may operate, requirements for when the retailer is not open for business, to whom cannabis goods can be sold to, and how cannabis goods may be displayed in the retail area.

The proposed regulations would clarify what goods a licensee may sell, including the provision that licensees may sell cannabis goods, cannabis accessories, and licensee’s branded or promotional materials, live immature cannabis plants and seeds if certain requirements are met. The proposed regulations would specify the daily limit of cannabis goods that may be sold to an individual and would clarify that retailers may accept cannabis goods returned by customers. The proposed regulations would prohibit retailers from providing free cannabis goods to any person, unless certain criteria are met, including that the free cannabis is provided only to medicinal

cannabis patients or to a local program. The proposed regulations would also clarify that a retailer may not package or label cannabis goods with the exception that all cannabis goods must be placed into a resealable child-resistant opaque exit package prior to the customer leaving the premises.

The proposed regulations would also set requirements for delivery and create a license for a non-storefront retailer to conduct retail cannabis sales exclusively by delivery and at temporary cannabis events. The proposed regulations would specify that delivery must be: (1) performed by a delivery employee of a licensed retailer; (2) made to a physical address in any California jurisdiction; (3) not made to public lands or facilities; and (4) made using an enclosed motor vehicle outfitted with a Global Positioning System, vehicle alarm system, and operated by a delivery employee of the licensee. The proposed regulations would specify the amount of cannabis goods that can be carried by a delivery employee of a licensed retailer, what activities the delivery employee may engage in, what requirements a delivery employee must follow while making deliveries, and that the delivery employee may not consume cannabis goods during delivery. The proposed regulations would also clarify what information must be in a delivery request receipt and what delivery route may be taken.

The proposed regulations would specify that retailers may only accept shipments of cannabis goods from a licensed distributor and set requirements for maintaining an accurate record of inventory and performing inventory reconciliation. The proposed regulations would also specify the information a record of sale must contain. Additionally, the proposed regulations would clarify when a transfer of cannabis goods between retail premises may occur.

Chapter 4: Microbusiness

Under MAUCRSA, a microbusiness license allows a licensee to conduct multiple commercial cannabis activities under one license. A microbusiness licensee is permitted to: cultivate cannabis on area less than 10,000 square feet; act as a licensed distributor; manufacture cannabis as a Level 1 manufacturer; and/or sell cannabis as a retailer. The proposed regulations would clarify that an applicant must engage in at least three of the four activities: cultivation, manufacturing, distribution, and/or retail sale. The proposed regulations would specify that the areas of the premises for manufacturing and cultivation shall be separated from the distribution and retail areas by a wall and all doors between the areas shall remain closed when not in use. The proposed regulations would specify the information that must be provided in the application depending on the commercial cannabis activities the licensee intends to engage in, such as requiring a cultivation plan and supplemental water source information if the licensee will engage in cultivation. The proposed regulations would specify that if a microbusiness' cultivation is found to be causing significant adverse impacts on the environment in a watershed or other geographic area, the Bureau shall not issue any new microbusiness licenses that include cultivation for that area. For manufacturing activities, the proposed regulations would require a description of inventory control procedures, quality control procedures, security procedures, and waste procedures. The proposed regulations would also clarify that microbusiness licensees must comply with all the rules and requirements promulgated for each commercial cannabis activity the licensee intends to engage in. The proposed regulations would clarify that if a licensee decides to change the activities they are authorized to engage in they must submit a request for modification to the Bureau and that any suspension or revocation of a microbusiness licensee

may affect all activities performed under that license. The proposed regulations would also specify additional record keeping requirements for microbusinesses engaging in cultivation and manufacturing.

Chapter 5: Cannabis Events

Under MAUCRSA, state temporary event licenses may be issued, authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association, provided that certain conditions are met, including that all participants are licensed. The proposed regulations would specify that an applicant for a temporary cannabis event license must first obtain a cannabis event organizer license by submitting an application containing certain information. The proposed regulations would further specify that an application for a temporary cannabis event license must be submitted no less than 60 days prior to the date for which the license is sought and that the license be valid for no more than 4 consecutive days. The proposed regulations would further specify what must be provided with the application including a diagram of the layout of the event with a detailed description of where cannabis sales and consumption will occur, and a list of all licensees that will be providing onsite sales of cannabis goods at the event must be provided to the Bureau at least 72 hours before the event. The proposed regulations would also require the cannabis event organizer to provide a designated contact person(s) who shall be onsite at the event and reachable by telephone at all times that the event is occurring.

The proposed regulations would specify that all sales of cannabis at a temporary cannabis event may only be performed by a licensed retailer or microbusiness authorized to sell cannabis to retail customers and all cannabis goods to be sold at the event must be transported to the event by a licensed distributor. The proposed regulations would further clarify that cannabis goods sold at a temporary event must comply with the applicable laws and regulations, including testing, packaging, and labeling requirements. The proposed regulations would also provide specific requirements for onsite consumption at a temporary cannabis event, including that access to the onsite consumption area be limited to persons 21 years of age or older and that cannabis consumption not be visible from any public place or non-age-restricted area. The proposed regulations would prohibit the event organizer from receiving profits or compensation based on sales.

Chapter 6: Testing Laboratories

Under MAUCRSA, all cannabis goods must meet certain health and safety standards before they can be sold to consumers. To ensure that cannabis goods meet those standards, a representative sample of the cannabis goods must be tested by a licensed testing laboratory. The proposed regulations would provide requirements for the minimum standards for “passing” the statutorily required testing of cannabis goods for retail sale at retailers or microbusinesses. The regulations would also provide the minimum operational requirements for laboratories, which would include requirements, such as sampling procedures, personnel qualifications, standard operating procedures, and recordkeeping requirements. These proposed regulations would set forth action levels and threshold values that provide the criterion for determining whether a cannabis goods sample passes or fails an analytical test; levels that the Bureau considers to be both protective of public health and achievable by the cannabis industry. The proposed exposure limits are necessary

to ensure, to the extent feasible, that no cannabis consumer will suffer material impairment of health from exposure to contaminants in cannabis goods. The proposed action levels are for chemicals, foreign material, heavy metals, and microbiological impurities.

Article 1 of the proposed regulations would clarify the applicable meaning of key statutory terms and other terms used within the regulations. These definitions would include terms, such as “action level,” “certificate of analysis,” “foreign material,” and “quality control sample.”

Article 2 of the proposed regulations would provide the licensing requirements that are specific to testing laboratories, such as proof of ISO/IEC 17025 accreditation, and requirements for obtaining a provisional license if an applicant meets all requirements for licensure apart from the ISO/IEC 17025 accreditation.

Article 3 of the proposed regulations would set forth minimum requirements for the sampling of cannabis goods. These requirements would include: the form that must be used for the testing laboratory’s sampling standard operating procedures; general sampling requirements, such as requirements that the testing laboratory that collects the sample must also perform the required testing; and how samples are to be stored. The proposed regulations would specify that a chain of custody protocol must be implemented to record information related to the sampling. The proposed regulations would also clarify requirements for sampling from a harvest batch, cannabis product batch, and pre-roll batch. The proposed regulations would specify requirements for the transportation of cannabis goods samples. Additionally, the proposed regulations would specify that a testing laboratory may only accept and analyze samples obtained from a distributor for state required testing when there is an accompanying chain of custody form.

Article 4 of the proposed regulations would provide the minimum standard operating procedures for laboratories and specify the forms that must be used. The regulations would also establish what the Bureau considers to be acceptable ways to validate a “nonstandard, amplified, or modified” test method.

Article 5 of the proposed regulations would specify what laboratories must test for and when testing laboratories must begin testing for certain things. The proposed regulations would specify the standards for the analyses of moisture content and water activity, residual solvents and processing chemicals, pesticides, microbial impurities, mycotoxins, foreign material, heavy metals, cannabinoids, and terpenoids. The regulations would also set forth general reporting requirements and require testing laboratories to generate a certificate of analysis for each sample of a batch of cannabis goods that it tests; containing necessary information to identify the testing laboratory, identify the sample, identify the test methods, and provide the test results.

Article 6 of the proposed regulations would provide requirements for post-testing procedures. These requirements would include a requirement that a batch may not be retested following a failed testing unless it has gone through a remediation process, constraints related to remediation, and requirements for retention of the testing sample.

Article 7 of the proposed regulations would set requirements for the minimum components of a quality-assurance program and what must be contained in the quality-assurance manual. The proposed regulations would require the use of laboratory quality control samples. The proposed

regulations would also clarify how to calculate the limit of detection and limit of quantitation and would require licensees to generate a data package for each batch of samples the laboratory analyzes. The proposed regulations would also require proficiency testing, clarify what a satisfactory and unsatisfactory proficiency test is, and require an annual internal audit.

Article 8 of the proposed regulations would specify laboratory employee education and experience requirements. Specifically, the regulations would require that a testing laboratory employ a supervisor or management employee who is responsible for overseeing and directing the scientific methods of the laboratory, ensure the laboratory achieves and maintains quality standards of practice, and provide training to laboratory employees. The proposed regulations would also require that laboratory analysts and samplers meet certain education and experience standards.

Article 9 of the proposed regulations would require testing laboratories licensees to maintain specific records.

Chapter 7: Enforcement

The proposed regulations would specify the enforcement provisions applicable to all Bureau licensees. Specifically, the proposed regulations would provide that the Bureau and its representatives shall have full access to inspect and enter onto any premises licensed by the Bureau. The proposed regulations would specify that the Bureau may provide a notice to comply to a licensee for violations observed during the inspection and would specify what a licensee may do in response to the notice. The proposed regulations would provide that the Bureau may issue citations containing orders of abatement and fines against a licensee for any acts or omissions which are in violation of MAUCRSA or its implementing regulations. The proposed regulations would also set forth the procedure for contesting and complying with citations issued by the Bureau.

The proposed regulations would specify the criteria for use of minor decoys including, that the decoy be under 20 years of age. The proposed regulations would specify that a license may not be held at some premises where certain attire and conduct is permitted, such as employing a person to conduct the sale of cannabis goods while such person is unclothed. The proposed regulations would further clarify that live entertainment is permitted on a licensed premises so long as certain conditions are met.

Under the MAUCRSA, licensees may be disciplined for failure to comply with any of the requirements for licensure that are in the Act itself or in the regulations. The proposed regulations would specify the additional grounds for discipline, such as, failure to take reasonable steps to correct objectionable conditions. The proposed regulations would also specify the procedures for disciplinary actions and would specify that the Bureau may petition for an interim order to suspend a license or impose licensing restrictions in certain cases, such as when permitting the licensee to continue to engage in the licensed activity would endanger the public health, safety, or welfare.

The proposed regulations would specify that a premises must post a notice when it has had a license suspended or revoked and would specify what the notice must say and how it must appear. The proposed regulations would clarify that the Bureau may request the administrative law judge to direct the licensee found to have committed a violation to pay a sum not to exceed the reasonable

costs of investigation and enforcement of a case and would specify the process for making the request. The proposed regulations would also specify the minimum conditions for probation that must be contained in an order placing a licensee on probation as a condition of staying a revocation or suspension. The proposed regulations would specify the disciplinary guidelines to be considered in reaching a decision on a disciplinary action under the MAUCRSA or the Administrative Procedures Act. Lastly, the proposed regulations would specify that the Bureau may issue emergency decisions and orders for temporary, interim relief and would specify the circumstances under which such orders may be issued as well as the procedures for issuing such orders.

Chapter 8: Other Provisions

Article 1 contains the proposed regulations related to research funding. The proposed regulations would specify that only public universities in California is eligible to receive funds disbursed pursuant to Revenue and Taxation Code section 34019, and that the amounts disbursed will not exceed the sum of ten million dollars for each fiscal year. The proposed regulations would specify what the request for proposal issued by the Bureau will contain, including the funding available, timeframes for the proposal review, and proposal requirements. The proposed regulations would also specify the selection process and criteria that the Bureau will use, how the funds will be released, and what reports the recipient must provide to the Bureau and how often those reports must be submitted.

Incorporated by Reference

The following documents are incorporated into the regulations by reference:

US Food and Drug Administration's *Guidelines for the Validation of Analytical Methods for the Detection of Microbial Pathogens in Foods and Feeds*, 2nd Edition, April 2015.

US Food and Drug Administration's *Guidelines for the Validation of Chemical Methods for the FDA FVM Program*, 2nd Edition, April 2015.

Bureau of Cannabis Control Disciplinary Guidelines July 2018.

The following forms are incorporated into the regulations by reference:

Transportation Procedures, Form BCC-LIC-015 (New 7/18)

Inventory Procedures, Form BCC-LIC-016 (New 7/18)

Non-Laboratory Quality Control Procedures. Form BCC-LIC-017 (New. 7/18)

Security Procedures, Form BCC-LIC-018 (New 7/18)

Cannabis Waste Management Procedures, Form BCC-LIC-019 (New 7/18)

Delivery Procedures, Form BCC-LIC-020 (New 7/18)

Sampling – Standard Operating Procedures, Form BCC-LIC-021 (New 7/18)

Sample Preparation – Standard Operating Procedures, Form BCC-LIC-022 (New 7/18)

Test Methods – Standard Operating Procedures, Form BCC-LIC-023 (New 7/18)

Anticipated Benefit of the Proposed Regulations:

The broad objectives of these proposed regulations are to create a state licensed and regulated commercial cannabis market. The proposed regulations are expected to benefit the health and welfare of California residents through increased protection of the public and the environment from the harms associated with an unregulated commercial cannabis market. Specifically, the proposed regulations will ensure that cannabis goods meet health and safety standards by requiring that samples of each batch of harvested cannabis and cannabis products be tested prior to being sold to consumers. The proposed regulations would also ensure that cannabis goods are sold in a manner that prevents access to the goods by persons under the age of 21 who do not possess a valid physician's recommendation. Finally, the proposed regulations would ensure that cannabis goods are handled in a manner that prevents diversion into the unregulated and illegal market.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The Bureau has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a search and review of any similar regulations on this topic, the Bureau has concluded that these are the only regulations that concern the state licensing and enforcement of commercial cannabis distributors, retailers, microbusinesses, cannabis events, and testing laboratories. These are also the only regulations that concern research funding for which the Bureau is responsible from the Cannabis Control Fund.

Evaluation of Inconsistency/Incompatibility with Existing Federal Regulations:

Under the federal Controlled Substances Act (21 U.S.C. §801 et seq.) cannabis is illegal. However, the U.S. Department of Justice issued guidance regarding the enforcement of cannabis activities in a memorandum issued by Deputy Attorney General James M. Cole on August 29, 2013, commonly referred to as the Cole Memorandum. Although the Cole Memorandum was rescinded in January 2018, these proposed regulations are not inconsistent or incompatible with the tenets of the Cole Memorandum. The Bureau has also determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a search and review of any similar regulations on this topic, the Bureau has concluded that these are the only regulations that concern the State licensing and enforcement of commercial cannabis distributors, retailers, microbusinesses, and testing laboratories. These are also the only regulations that concern research funding from the Cannabis Control Fund.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Bureau has made the following initial determinations:

Mandate on local agencies and school district: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 et seq.: None.

Other non-discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: The proposed regulations are expected to increase the costs of all businesses licensed by the Bureau. It is expected that the average business will incur \$80,000 of initial costs for compliance and \$200,000 annual ongoing cost. Only businesses within the cannabis industry are expected to incur these additional costs. The costs may vary depending on the type and size of the business.

The proposed regulations are expected to have no financial effect on individuals who are not cannabis users. On the other hand, individuals who are cannabis users are expected to incur no initial costs and roughly \$200 of annual ongoing costs due to the proposed regulations. The price of cannabis is expected to rise due to the proposed regulations. The customers who are the end consumers are expected to incur some of those additional costs.

Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action will directly affect businesses statewide, including small businesses, the Bureau concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant.

Significant effect on housing costs: None

Small Business Determination: The Bureau has determined that the proposed regulations will affect small businesses. It is expected that the proposed regulations would result in an initial cost of \$60,000 for a small business and an annual ongoing cost of \$150,000.

Results of the Standardized Regulatory Impact Analysis

The Bureau worked with the University of California Agricultural Issues Center (AIC) to prepare the Standardized Regulatory Impact Analysis (SRIA). The SRIA was submitted to the California Department of Finance on May 9, 2018. Below, is a summary of the SRIA.

It is expected that the regulations will result in the approximately 4,837 new jobs in the State of California. Of these expected jobs, 3,227 are expected to be in the retail sector, 783 new jobs in the laboratory testing sector, and 827 new jobs in the distributor sector.

The regulations are expected to lead to the creation of approximately 48 new retail operations and 20 new testing laboratory businesses throughout the state. Overall, it is estimated that 5,000 new businesses will enter, and 6,000 existing businesses will exit the industry.

The regulations are expected to result in competitive advantages for some business who are operating in California and competitive disadvantages for other businesses operating within California. The new requirements in the regulations are expected to create a competitive advantage for existing businesses that can easily adjust to the new requirements. On the other hand, some existing businesses may have more difficulty adjusting to the new requirements in the regulations. These businesses may be at a competitive disadvantage if shifting their operations to comply with new requirements requires additional costs that a new business may not have to bear. Additionally, the few testing laboratories that are currently in operation will likely have a competitive advantage as they are already operating in what is expected to be an expanding sector.

The regulations are expected to result in an increase in investment in California. The revenue within the cannabis industry is expected to increase by about \$634 million. This increase in revenue is expected to be accompanied by an increase in investment. Additionally, many businesses under the regulations will require additional investment in security equipment and other costs of complying with the regulatory requirements. It is expected that a large amount of increased investment will be the laboratory testing sector. New testing laboratories will be established, and investment will be required to ensure that existing testing laboratories meet the requirements of the regulations.

It is expected that the regulations will create an incentive for innovation. This is most notable in the laboratory testing sector. As stated above, the requirements for testing laboratories will require significant levels of investment due to the creation of new businesses. The types of testing required by the regulations are currently very costly. Therefore, there is an incentive for testing laboratories to develop and use new equipment and processes that will enable the laboratory to perform the required tests in a more efficient way.

There are a number of benefits that are expected as a result of the regulation. First, the regulations are expected to benefit public safety as well as worker safety. The regulations contain minimum security requirements for all licensed cannabis businesses, which are expected to increase the security of the premises of all licensed cannabis businesses. This is expected to result in a decrease the likelihood of crime occurring on the premises. The security requirements are expected to create a deterring effect that would prevent some crimes from being committed. Additionally, the security requirements would allow the Bureau and law enforcement to effectively investigate and resolve any crimes that may occur. A reduction in crime around cannabis businesses would benefit the public and employees of these businesses. The security requirements along with the track-and-trace system are expected to prevent cannabis goods from

exiting the regulated system and entering the illegal market. A reduction of the amount of cannabis on the illegal market will benefit the welfare of all California residents.

The laboratory testing requirements within the regulation are also expected to provide a benefit to the public. The laboratory testing requirements are expected to identify the cannabis goods that may be unsafe for public consumption and remove them from the market. Under the testing requirements in the regulation, only the cannabis goods that have been thoroughly tested and approved for consumption will be sold. Any cannabis goods that do not pass the testing will not be allowed to enter the market. Preventing potentially harmful products from entering the market will likely benefit the health and welfare of California residents.

Summary of comments from the Department of Finance and Bureau response

The Department of Finance acknowledged that costs for compliant businesses would be higher, they would benefit from greater certainty in the supply chains and be able to amortize investments over time leading to higher profits, and that consumers are expected to buy more from the legal market. The Department of Finance generally agreed with the Bureau's methodology and indicated that the SRIA does a good job of laying out the underlying mechanisms of how the regulations affect the businesses and state's economy while recognizing that the baseline must incorporate regulations being concurrently developed by the other licensing authorities.

Department of Finance Comment 1

In regard to the testing laboratory sector, your comment states:

First, the SRIA should address the possibility that costs are higher than estimated in the laboratory sector, which may decrease the number of businesses that choose to shift into the legal sector. The SRIA assumes that in the long run the number of testing facilities will increase proportionally to the testing needs implied by the growing demand of the legalized cannabis market. However, if only a few laboratories are able to make investments, the price for testing services will be higher, increasing the retail price of cannabis products and decreasing the total quantity of cannabis sold in the legal market.

Bureau Response to Comment 1

Testing is the area of regulations that have the potential to add substantial costs to the final production and it is therefore appropriate to focus attention on testing regulation. If testing costs were higher than anticipated without increasing consumer willingness to pay, that would decrease the quantity of legal cannabis sold. The issue of testing capacity is an important consideration. We note that the SRIA did not evaluate short term bottlenecks in testing capacity, the issue, as your comment makes clear is the longer term supply of testing services.

An important consideration is that about 80% of the full testing costs calculated in the SRIA relate to loss of product that fails to meet testing standards. The issue of laboratory testing costs

equate to about \$30 per pound of direct laboratory costs, including collection of samples. Since the amount of investment depends on potential return, we would expect higher returns to testing would attract the needed capital and do not see a constraint therein as the industry moves past the initial startup of regulations. One issue may be the trade-off between scale economies in the laboratory and the cost of moving samples. The SRIA assumes a distribution of large and small laboratories partly to reflect the fact that cultivators, manufacturers and retailers are likely to be concentrated in different locations so the cost of moving samples may allow smaller local laboratories to compete with large laboratories servicing centralized locations. We are monitoring the license process for testing laboratories to better anticipate if there is likely to be problems in terms of testing capacity and costs.

Department of Finance Comment 2

In regard to small businesses, your comment states:

Second, the analysis should address the potentially disproportionate impacts on small businesses of the costs of compliance. For large successful businesses, the cost to comply represents a small share of its profits, but for small businesses the cost of compliance may be a significant share of their already low operational profits, leading them to choose non-compliance or exit from the industry.

Bureau Response to Comment 2

As you note, scale economies in regulatory compliance can be significant, especially when there are substantial fixed costs in understanding and responding correctly to new regulations. Regulations that may cause advantages to larger operations include several categories. First, in some cases there may be volume discounts for mandated packaging, or other required materials. As a share of total costs of a retail or distribution business these are very small. Second, we show data that the cost of testing per unit of cannabis products is smaller for larger batch sizes because testing costs are mostly constant per batch. If larger distributors or retailers have larger batch sizes associated with products that they handle, they would gain some economies. Finally, the cost for security such as cameras and security employees may be roughly constant per location whether the distributor or retailer handles more cannabis or less. Therefore, that fixed cost may be spread across more units at larger operations, providing a cost advantage. The largest costs of the proposed regulations are roughly proportional to volume. This applies to testing costs per pound and packaging requirements.

We note that these size-related cost impacts are similar to those found in any industry and are not unique to cannabis. However, cannabis is different because product-specific regulations likely account for a higher share of total costs and have a larger impact on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for

which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Bureau invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

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

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

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

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

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

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

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Kaila Fayne
Bureau of Cannabis Control
2920 Kilgore Road
Rancho Cordova, CA 95260
916-465-9120
Kaila.Fayne@dca.ca.gov

The backup contact person for these inquiries is:

CJ Croyts-Schooley
2920 Kilgore Road
Rancho Cordova, CA 95260
916-465-9029
cj.croyts-schooley@dca.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the contact persons listed above.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Bureau will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, the Standardized Regulatory Impact Analysis, and technical, theoretical, and/or empirical studies, reports, or documents relied upon. Copies of materials may be obtained by contacting Kaila Fayne at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding hearings and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Kaila Fayne at the address or phone number indicated above. The Bureau will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Kaila Fayne at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement or Reasons, and the text of the regulations can be accessed through the Bureau’s website at www.bcc.ca.gov.