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COUNTY OF SANTA CRUZ, et al

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF FRESNO

COUNTY OF SANTA CRUZ; CITY OF
AGOURA HILLS; CITY OF ANGELS CAMP;
CITY OF ARCADIA; CITY OF ATWATER;
CITY OF BEVERLY HILLS; CITY OF CERES;
CITY OF CLOVIS; CITY OF COVINA; CITY
OF DIXON; CITY OF DOWNEY; CITY OF
MCFARLAND; CITY OF NEWMAN; CITY OF
OAKDALE; CITY OF PALMDALE; CITY OF
PATTERSON; CITY OF RIVERBANK; CITY
OF RIVERSIDE; CITY OF SAN PABLO; CITY
OF SONORA; CITY OF TEHACHAPI; CITY
OF TEMECULA; CITY OF TRACY; CITY OF
TURLOCK; and CITY OF VACAVILLE,

Plaintiffs,

v.

BUREAU OF CANNABIS CONTROL; LORI
AJAX, in her official capacity as Chief of the
Bureau of Cannabis Control; and DOES 1
through 10, inclusive,

Defendants.

Filing Fee Exempt
(Gov. Code § 6103)

E-FILED
5/13/2020 10:54 AM
Superior Court of California
County of Fresno
By: Louana Peterson, Deputy

Case No.: 19CECG01224

**REQUEST FOR JUDICIAL NOTICE,
EXHIBITS VOLUME 8 (EXHIBITS 51-55)**

Complaint filed: April 4, 2019
Trial Date: July 16, 2020

Assigned for all purposes to Judge Rosemary
McGuire, Department 403.

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EXHIBIT 51



California Regulatory Notice Register

REGISTER 2018, NO. 28-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JULY 13, 2018

PROPOSED ACTION ON REGULATIONS

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Conflict-of-Interest Code — Notice File No. Z2018-0703-06 1045

Adoption

Multi-County: California Automated Consortium Eligibility System

Amendment

State Agency: Department of Rehabilitation

Multi-County: Golden Gate Bridge, Highway and Transportation District

Turlock Unified School District

Sacramento Municipal Utility District

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Parent Subsidiary — Notice File No. Z2018-0703-07 1046

TITLE 2. STATE TREASURER'S OFFICE

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TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Cannabis Cultivation Licensing — Notice File No. Z2018-0703-01 1048

TITLE 16. BUREAU OF CANNABIS CONTROL

Medicinal and Adult-Use Cannabis Regulation — Notice File No. Z2018-0703-04 1057

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

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TITLE 17. DEPARTMENT OF PUBLIC HEALTH

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

ADOPTION

MULTI-COUNTY: California Automated
Consortium Eligibility
System

AMENDMENT

STATE AGENCY: Department of Rehabilitation
MULTI-COUNTY: Golden Gate Bridge, Highway
and Transportation District
Turlock Unified School District
Sacramento Municipal
Utility District

A written comment period has been established commencing on July 13, 2018, and closing on August 27, 2018. Written comments should be directed to the Fair Political Practices Commission, Attention Sasha Linker, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for her review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than August 27, 2018. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Sasha Linker, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Sasha Linker, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **August 16, 2018**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **August 14, 2018**.

BACKGROUND/OVERVIEW

The Act’s conflict-of-interest provisions prohibit an official from making, participating in making, or using his or her official position to influence a decision in which the official has a financial interest. (Section 87100.) An official has a financial interest in the decision, if it is reasonably foreseeable the decision will have a material financial effect on the official or on specified interest, including a business entity, in which the official has an investment of \$2,000 or more (Sec-

tion 87103(a)); a source of income of \$500 or more in the 12 months prior to a decision (Section 87103(c)); and a business entity in which the official is a director, officer, partner, trustee, employee, or holds any position in management (Section 87103(d)).

Historically, the Commission has determined that an official with an interest in a business entity also has an interest in a parent, subsidiary, or related business entity. This is based on the fact that under Sections 82034 and 87209 an “investment” is any financial interest or security interest of more than \$2,000 in a business entity, and a “business position” is any business entity in which the official is director, officer, partner, trustee, employee, or manager, if the business entity, or any subsidiary, or otherwise related business entity does business in the jurisdiction. Former Regulation 18703.1(c) expressly stated that “[a]n official has an economic interest in a business entity which is a parent or subsidiary of, or is otherwise related to, a business entity in which the official has one of the interests defined in [Section] 87103(a) or (d).” However, this language was removed from Commission regulations in 2014.

Current Regulation 18700.2, however, still defines parent, subsidiary, and otherwise related business entities for purposes of Section 82034 and 87209 of the Act. Moreover, in defining various interests under the Act, Regulation 18700 still directs officials with an interest in a business entity to refer to the definition of parent subsidiary, and otherwise related business entity in Regulation 18700.2. (Regulation 18700(c)(6)(A), (C) and (D).) Accordingly, staff has continued to advise that an interest in a business entity may include an interest in a parent, subsidiary, or otherwise related business entity depending on the factual circumstances. (See *Chmura* Advice Letter, No. 1-17-051, and *Pelletier* Advice Letter, No. 1-17-144.)

REGULATORY ACTION

Amend 2 Cal. Code Regs. Section 18700.2 — Parent Subsidiary, Otherwise Related Business Entity: Defined.

In examining the scope of the parent, subsidiary, or otherwise related business rule, the question of when an official should know if a parent-subsidiary relationship exists for purposes of disqualification has emerged. In response, staff has drafted proposed amendments to Regulation 18700.2. Specifically, proposed subdivision (d) would establish an exception to the general rule that an official with an interest in a business entity also has an interest in a parent, subsidiary, or otherwise related business entity.

The exception provides that an official does not have an interest in a parent, subsidiary, or otherwise related business if all the following conditions are met: the offi-

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

cial owns less than 5 percent of the shares of a corporation and is a passive shareholder, the parent corporation is required to file annual Form 10-K or 20-F Reports with the Securities and Exchange Commission and the parent corporation has not identified the subsidiary or related business on those forms or its annual report.

Just as significantly, proposed subdivision (c) is added to the regulation to clearly state that an official with a financial interest in a business entity also has an interest in a parent, subsidiary, or otherwise related business entity except as provided in the above-mentioned exception found in subdivision (d).

Lastly, in the definition of “otherwise related business entities” in subdivision (b)(3)(A) and (B), the phrase “the same person or a majority of the same persons:” is replaced with “the same person or persons together” to clarify that business entities are considered otherwise related only when the same person or people own a controlling interest in two or more businesses or the same person or people own 50 percent or more ownership interest in two or more businesses. This would apply to businesses other than a parent corporation as defined in subdivision (b)(1) of the proposed regulation.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret, and make specific Government Code Sections 82034, 87100, 87103, and 87209.

CONTACT

Any inquiries should be made to Sukhi K. Brar, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 2. STATE TREASURER’S OFFICE

Notice of Intention to Amend Conflict-of-Interest Code

NOTICE IS HEREBY GIVEN that JOHN CHIANG, the Treasurer of the State of California, pursuant to the authority vested in him by Government Code sections 87300 through 87302, and 87306, proposes to amend the conflict-of-interest code. Pursuant to Government Code sections 87300 through 87302, and 87306, the conflict-of-interest code designates employees and others who must disclose certain investments, income, interests in real property, and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests. The amendment includes:

- Addition, revision, and deletion of designated positions

Copies of the proposed amended code are available and may be requested from the agency contact set forth below.

WRITTEN COMMENT PERIOD

A written comment period has been established commencing on July 13, 2018 and terminating on August 27, 2018. Any interested person may submit written comments concerning the proposed conflict-of-interest code amendment no later than August 27, 2018 to:

State Treasurer’s Office
Attention: Ravinder Kapoor, Senior Attorney
915 Capitol Mall, Room 110
Sacramento, CA 95814

A public hearing on this matter will not be held unless no later than 15 days prior to the close of the written comment period, an interested person or his or her rep-

representative submits to the agency contact set forth below a request for a public hearing.

The State Treasurer has prepared a written explanation of the reasons for the designations, disclosure categories, and disclosure responsibilities, and has available all of the information upon which the proposed amendment is based.

AGENCY CONTACT

Copies of the proposed amendment to the conflict-of-interest code and all of the information upon which the amendment is based may be obtained from, and any inquiries concerning the proposed amendment should be directed to:

State Treasurer's Office
Attention: Ravinder Kapoor
915 Capitol Mall, Room 110
Sacramento, CA 95814
(916) 653-2995
ravinder.kapoor@treasurer.ca.gov

ALTERNATIVES CONSIDERED

The State Treasurer must determine that no alternative considered by the State Treasurer 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.

The State Treasurer has determined that the proposed amended code:

1. Imposes no mandate on local agencies or school districts.
2. Imposes no cost or savings on any State agency.
3. Imposes no cost on any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.
4. Will not result in any nondiscretionary cost or savings to local agencies.
5. Will not result in any cost or savings in federal funding to the State.
6. Will not have any potential cost impact on private persons or businesses, including small businesses.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department or CDFA) intends to adopt Division 8, Chapter 1, sections 8000 to 8608,

within Title 3 of the California Code of Regulations pertaining to its Cannabis Cultivation Program. With this rulemaking, the Department will propose permanent regulations after the consideration of all comments, objections, and recommendations regarding the proposed action.

The Department is issuing this notice to meet requirements set forth in Government Code section 11346.5.

PUBLIC HEARINGS

The Department will hold public hearings at the dates, times, and locations listed below at which time any interested person may present statements or arguments orally or in writing relevant to the proposed action.

Tuesday, July 24, 2018 1 p.m. to 3 p.m.

Adorni Center
1011 Waterfront Drive
Eureka, CA 95501

Thursday, July 26, 2018 1 p.m. to 3 p.m.

Mission Inn Hotel and Spa
3649 Mission Inn Avenue
Riverside, CA 92501

Tuesday, July 31, 2018 1 p.m. to 3 p.m.

Hilton Santa Barbara Beachfront Resort
633 E Cabrillo Boulevard
Santa Barbara, CA 93103

Tuesday, August 28, 2018 1 p.m. to 3 p.m.

California Department of Food & Agriculture
Auditorium
1220 N St
Sacramento, CA 95814

Services, such as translation between English and other languages, may be provided upon request. To ensure availability of these services, please make your request no later than ten (10) working days prior to the hearing by calling the staff person referenced in this notice.

Servicios, coma traducción, de Ingles a otros idiomas, pueden hacerse disponibles si usted los pide en avance. Para asegurar la disponibilidad de éstos servicios, por favor haga su petición al minima de diez (10) días laborables antes de la reunion, llamando a la persona del personal mencionada en este aviso.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may be submitted by mail or by email to:

Amanda Brown
California Department of Food and Agriculture
CalCannabis Cultivation Licensing Division
P.O. Box 942871
Sacramento, CA 94271
CalCannabisRegs@cdfa.ca.gov
Phone: (916) 263-0801

The written comment period closes at 5:00 pm on August 27, 2018. The Department will consider only comments received by that time and via the delivery methods designated above.

AUTHORITY AND REFERENCE

The Department is proposing to adopt sections 8000–8608 of Title 3 of the California Code of Regulations.

Business and Professions Code sections 26000, 26001, 26012, 26013, 26050.1, 26053, 26055, 26060.1 and Health and Safety Code section 11362.768 authorize the Department to prescribe, adopt, and enforce the proposed regulations governing the licensing of commercial cannabis cultivation. The proposed regulations will implement, interpret, make specific or reference sections 12027, 12210, 12212, 12700, 26001, 26010, 26012, 26013, 26015, 26031, 26038, 26050, 26050.1, 26051, 26051.5, 26053, 26054, 26054.2, 26055, 26057, 26058, 26060, 26060.1, 26061, 26063, 26066, 26067, 26069, 26070, 26110, 26120, 26121, 26160, 26180, and 26201 of the Business and Professions Code, sections 1602 and 1617 of the Fish and Game Code, section 12754.5 of the Food and Agricultural Code, section 1140 of the Labor Code, sections 40141 and 42649.8 of the Public Resources Code, and sections 5101, 13149, 13575, and 13751 of the Water Code.

INFORMATIVE DIGEST / POLICY STATEMENT

Existing Law:

Proposition 215 (1996), also known as the Compassionate Use Act of 1996, was passed by California voters and made it legal for patients and their designated primary caregivers to possess and cultivate marijuana for their personal medical use given the recommendation or approval of a California-licensed physician.

Senate Bill 420 (Vasconcellos, Chapter 875, Statutes of 2003), also known as the Medical Marijuana Program Act, required the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use cannabis for medical purposes, and required the establishment of guidelines, including limits, for the lawful cultivation of cannabis grown for medical use.

Assembly Bill 243 (Wood, Chapter 688, Statutes of 2015), Assembly Bill 266 (Bonta, Chapter 689, Statutes of 2015), and Senate Bill 643 (McGuire, Chapter 719, Statutes of 2015), established a regulatory program for the cultivation of medical cannabis as part of the Medical Cannabis Regulation and Safety Act (MCRSA). The MCRSA mandated the Department to establish the Medical Cannabis Cultivation Program (MCCP) to regulate, implement, and enforce the MCRSA as it pertains to the cultivation of commercial medical cannabis. The legislation mandated regulation to encourage environmental protection measures by the cultivator to prevent further pollution of water, degradation of the natural environment, wildlife endangerment, and to protect public peace, health, and safety. MCRSA required the Department to develop and enforce regulations for statewide commercial medical cannabis cultivation activities occurring at nurseries and indoor, outdoor, and mixed-light cultivation sites. The MCRSA also obligated the Department to create and implement a track-and-trace system to monitor commercial medical cannabis from cultivation through the distribution chain, to be the lead agency in implementing California Environmental Quality Act requirements for the statewide cultivation program, and ensure that weighing or measuring devices used for the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 of the Business and Professions Code (commencing with section 12001). Fees associated with cultivation are required to be scaled and must cover the Department's costs of implementing and enforcing the commercial cultivation licensing program and subsequent regulations. The MCRSA has since been repealed, but all of the Department's obligations listed above have been incorporated in the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017.

Proposition 64 (2016), also known as the Adult Use of Marijuana Act or AUMA, was passed by California voters and legalized the consumption and cultivation of cannabis for adult-use and specifies conditions under which cannabis may be cultivated, processed, and sold for commercial purposes in California.

Senate Bill 94 (Committee on Budget and Fiscal Review, Chapter 94, Statutes of 2017), also known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act or MAUCRSA, repealed the MCRSA and integrated the regulation of the medical and adult recreational markets into one regulatory framework that prioritizes consumer and public safety, environmental protection, and tax compliance for commercial cannabis cultivation. This law created agricultural cooperatives for small cannabis cultivators, a method for collecting and remitting taxes, a process for testing and packaging,

and a process for collecting data related to driving under the influence.

Assembly Bill 133 (Committee on Budget, Chapter 253, Statutes of 2017) made technical changes to MAUCRSA on cannabis related issues necessary to implement the 2017 Budget Act. This new law further clarified the intent of the legislature regarding MAUCRSA.

Environmental Information and California Environmental Quality Act Compliance:

One of the largest effects of unregulated cannabis cultivation has been serious adverse impacts to the environment. The State Water Resources Control Board, the North Coast Regional Water Quality Control Board, and the Department of Fish and Wildlife have documented an increase in the number of unregulated cannabis cultivation sites and corresponding increases in impacts to water supply and water quality, including the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash, and human waste.

The Department prepared the Programmatic Environmental Impact Report (PEIR) in accordance with the provisions of the California Environmental Quality Act. Certified on November 13, 2017, the PEIR provides stakeholders, including the public, responsible agencies, and cannabis cultivators with information about the potential significant environmental impacts associated with the adoption and implementation of these statewide regulations and mitigations to address significant environmental impacts at cannabis cultivation sites in California.

The PEIR is available for viewing at: <https://www.cdfr.ca.gov/CalCannabis/PEIR.html>.

Objectives and Anticipated Benefits from this Regulatory Action:

Existing law obligates the Department to license and regulate all commercial cannabis cultivators in California, but allows for discretion with regard to the promulgation and maintenance of regulations to achieve this goal. The primary goal of these regulations is to establish practical and implementable licensing, enforcement, and track-and-trace programs to fulfill the Department's responsibilities under the MAUCRSA, as well as provide a framework for implementation.

Because regulations are intended to transition California cannabis cultivation to a legitimate industry, cultivators will be provided the opportunity to operate in compliance with state laws and regulations applicable specifically to cannabis and California business requirements in general. For the first time, California cannabis cultivators will have the opportunity to become licensed by the state and openly operate within their communities.

The availability of state licensing for cannabis cultivators allows local and state law enforcement to clearly differentiate legal and illegal cannabis cultivation operations. This clear differentiation allows law enforcement to focus their efforts on eliminating cultivation sites that elect to grow cannabis without a state license. Over time, this prioritization will reduce the number of illegal cannabis cultivators in California and in turn reduce illegal cannabis cultivation activity impacts on California's environment and public health.

Regulations will also outline specific requirements included to protect the environment. Licensed cultivators will be subject to verification of compliance with these requirements and may face fines and penalties if found to be noncompliant. Under the state licensing program, cultivators will face potential consequences for noncompliance that did not exist under the unregulated marketplace. As an effect, the Department expects that state licensed cannabis cultivators will be motivated to comply resulting in protection of the environment at licensed cultivation sites.

Anticipated cumulative benefits of these regulations action include:

- Safeguarding of the environment through implementation of environmental protection measures and enforcement of existing environmental protection laws;
- Promotion of a fair and equitable marketplace for licensed cultivators;
- Creation of legitimate businesses and tax revenue sources;
- Increased worker safety through enforcement of existing employee protection laws.

Regulations are expected to create jobs through the introduction of new cultivation businesses and from industries that will support the emerging legitimate market such as accounting and legal services.

Inconsistency with Federal Regulations or Statutes:

The United States Drug Enforcement Administration, under the Controlled Substances Act, lists cannabis as a Schedule I drug. Schedule I drugs are defined as having a high potential for abuse, having no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use of the drug under medical supervision (21 U.S.C. § 812).

Controlled Substances Act, Title 21 — Food and Drugs, Chapter 13 — Drug Abuse and Prevention Control, Subchapter 1 — Control and Enforcement, Part B — Authority to Control; Standards and Schedules: <https://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm>

Consistency with Existing State Regulations:

As required by Government Code section 11346.5(a)(3)(D), the Department has conducted an evaluation of these regulations and has determined that they are not inconsistent or incompatible with existing state regulations.

PLAIN ENGLISH REQUIREMENT

The Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The proposed regulations are written to be easily understood by the persons that will use them.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department has made the following initial determinations:

LOCAL MANDATE

There will be no local mandate. Business and Professions Code section 26200 provides local jurisdictions the ultimate authority to adopt and enforce local ordinances related to cannabis business licensure as well as the ability to completely prohibit the establishment or operation of such businesses within its jurisdiction.

COST OR SAVINGS TO STATE AGENCIES
(FISCAL IMPACT)

The Department is tasked with issuing medicinal and adult-use cannabis cultivation licenses and administering all aspects of the cannabis cultivation regulations. The total annual agency budget equals approximately \$32 million (medicinal and adult-use cannabis) for the current Fiscal Year (2017–18), including \$6.3 million in external consulting services. The program cost will be recovered through one-time application fees and annual license fees, which will need to be adjusted as the market modifies over time.

The Department is tasked with ensuring that licensed cultivators are complying with cultivation regulations. This includes site inspections and ensuring compliance with all licensing requirements, including the track-and-trace system. Department enforcement staff will also be responsible for referring complaints about unlicensed operations to appropriate state and local law enforcement.

It is likely that more illegal grow sites will be reported and local agencies will need to allocate more resources to eradication under MAUCRSA. These additional costs are not caused by Department regulations. By licensing cultivators, these regulations will make it easier for local agencies to identify unlicensed grow sites and the cost per eradication will likely decrease. The Department assumes that the total compliance cost will increase, but the effectiveness of enforcement per dollar spent will also increase. The Department's Standardized Regulatory Impact Analysis used a mid-point cost of eradication equal to \$3 per plant, which is assumed to be inclusive of all incremental eradication/enforcement costs. It is additionally assumed that eradications increase by 15 percent over 2015 levels (2.6 million plants) under MAUCRSA. The total increase in enforcement costs to local agencies equals \$1.189 million.

The Department's regulations do not cause any increase in costs to other state agencies. The State Water Resources Control Board, Department of Pesticide Regulation, Department of Consumer Affairs, and other agencies are required to take actions under MAUCRSA, but any costs are separate from the Department's regulations. Similar to local agency fees, taxes, and regulations, the Department's regulations require cultivators to comply with other state agency regulations, but do not require any agency to take specific actions. As such, other state agencies do not incur costs as a result of these proposed regulations.

COST TO ANY LOCAL AGENCY OR SCHOOL
DISTRICT WHICH MUST BE REIMBURSED IN
ACCORDANCE WITH GOVERNMENT CODE
SECTIONS 17500 THROUGH 17630

None.

OTHER NON-DISCRETIONARY COST OR
SAVINGS IMPOSED ON LOCAL AGENCIES

The Department's regulations do not require additional expenditures by local governments. However, local agencies can set fees, taxes, and other rules independent of what the Department does (or what is required in MAUCRSA) under medicinal and adult use cannabis regulations. The Department will require cultivators to comply with all local regulations, and as such, the cost of complying with these local regulations is included in the economic impact analysis. In short, there are no fiscal impacts to local agencies as part of the medicinal and adult use cultivation regulations, but the economic impact analysis does include local fees/costs that cultivators must pay to obtain a cannabis license because these costs affect cannabis production costs across the state.

COST OR SAVINGS IN FEDERAL FUNDING
TO STATE

None.

DETERMINATION OF ANTICIPATED
BUSINESS IMPACT

The proposed regulations are intended to encourage what are currently illegal cannabis cultivation businesses to become legal (at the state level) and regulated. There may be some new businesses that did not pay taxes before these proposed regulations, and therefore are “new” as far as the California Department of Tax and Fee Administration is concerned. California is known worldwide for its cultivated cannabis, so it is likely that the new businesses are simply current operators that decide to join the regulated market. These proposed regulations will increase the number of legal cannabis cultivation businesses paying taxes in California.

Businesses will be required to submit an application to obtain a license from the Department. The proposed regulations include applicant requirements and the fees required to obtain a license. Businesses will also need to comply with the environmental protection measures set in the proposed regulations. The proposed regulations establish a track-and-trace system that the businesses will need to follow, including uniquely identifying plants and products and recordkeeping.

According to the Department’s Standardized Regulatory Impact Analysis, the net effect of these proposed regulations is an increase of 1,673 jobs statewide. Most of the increase comes from additional labor for local and state government and related programs.

The Department has made an initial determination that the adoption of this regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department has considered proposed alternatives that would lessen any adverse economic impacts on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

COST IMPACTS ON A REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

The Department regulations will have an uncertain impact on individuals. Regulations will increase cannabis product safety (e.g. limited pesticides), but this has uncertain effects on consumer health outcomes. Public safety may improve through better regulation, enforcement, and compliance (licensing), but there is limited evidence to analyze this effect. There is no evidence of adverse health or public safety outcomes.

Direct benefits to individuals include an increase in employee wages. Labor income increases with the exception of cultivator proprietor income, with different effects by industry sector. The net impact on wage income equals an increase of \$128 million statewide annually. This is driven by the significant decrease in proprietor income to cultivators that are offset by increased wages in other sectors of the economy that support cannabis cultivation. Effectively, Department regulations reduce cultivator margins by increasing licensing, application, and direct regulatory compliance fees. This results in a decrease in proprietor income and statewide labor income.

HOUSING COSTS

None.

SMALL BUSINESS IMPACT

Most cannabis businesses are small businesses; therefore the impacts listed above would affect these businesses.

BUSINESS REPORTING REQUIREMENT

It is necessary for the health, safety, or general welfare of the people of the state that this regulation which requires a report apply to businesses.

RESULTS OF THE STANDARDIZED
REGULATORY IMPACT ANALYSIS (SRIA)

(A) The creation or elimination of jobs within the state.

The net effect of the Department’s regulations analyzed in its economic impact study is an increase of 1,673 jobs statewide, as shown in Table 32 of the SRIA. Also in Table 32, the total number of jobs created equals 2,795, and the total number of jobs destroyed equals 1,122 (net 1,673). Most of the increase comes from additional labor for local and state (in addition to the Department) government and related programs. Labor in-

come increases with the exception of cultivator proprietor income, with different effects by industry sector. The net impact on wage income equals an increase of \$128 million statewide annually. This is driven by the significant decrease in proprietor income to cultivators that are offset by increased wages in other sectors of the economy that support cannabis cultivation. Effectively, the Department's regulations reduce cultivator margins by increasing licensing, application, and direct regulatory compliance fees. This results in a decrease in proprietor income and increase statewide labor income.

(B) The creation of new businesses or the elimination of existing businesses within the state.

The combined effect of the Department's regulations and increased effectiveness of enforcement for unlicensed cultivation (not directly part of these regulations) will result in new businesses entering the regulated industry. Most of the businesses that enter the regulated market will shift over from the existing unregulated market. There will be some "new businesses" (e.g. do not currently grow cannabis in California), but these new businesses will likely be a small share of the market and will be offset by unregulated cultivators (who are currently producing cannabis in California) leaving the market in response to more effective enforcement. In short, the proposed regulations will cause an increase in the number of licensed cannabis cultivation businesses paying taxes in California. The net increase over current conditions is the difference between the combined medicinal and adult use market after statutory and regulatory adjustments and the current medicinal market. The net increase as defined using SRIA guidelines is the difference between the combined medicinal and adult use market after statutory and regulatory adjustments and the SRIA baseline (combined adult use and medicinal market after statutory adjustments only).

The total number of licensed cannabis cultivation businesses depends on the average license size of the businesses that enter the market. In general, 2,000–7,500 licenses can supply the estimated market size. The regulations would also create a new business sector, processors, that would handle cannabis trimming, drying, and packaging activities. This analysis has assumed that these businesses could be 20 percent of total medicinal cannabis harvest, based on comparable fresh fruit and berry industries.

As stated under Section 6.1 of the SRIA, it will take some time for the market to reach equilibrium. There is a multiplicity of rules being promulgated by state and local agencies and this will continue for the next several years. The economic impact analysis presented in the SRIA reflects the best information available, and demonstrates impacts relative to a market in equilibri-

um. Market adjustments should be monitored closely as the industry adjusts over the next several years.

The investment in California's gross state product is the value added contribution for each industry, shown in Table 32 of the SRIA. The net effect on total value added is positive, but varies by sector. The net impact on statewide value-added equals \$140.9 million dollars annually, which is significant but is still a small share of the total economy. Most of the change in value added is due to increased local and state government expenditures (permit fees excluding taxes), and decreases in cultivator proprietor income.

(C) The competitive advantages or disadvantages for businesses currently doing business within the state.

California has an established cannabis production industry and it is likely that this will continue into the foreseeable future. Regulating and standardizing the industry may improve quality and reliability. This could be beneficial and further solidify a competitive advantage for California cannabis producers. It is not possible to quantify these effects at this time.

(D) The increase or decrease of investment in the state.

The Department's regulations are likely to spur investment by cultivators, other California cannabis businesses, and related sectors of the economy. The SRIA analysis clearly shows that regulations require significant investment in cottage, specialty, small, and medium cultivation (and nursery and processing) businesses in California. In the longer run as the industry adjusts it is likely that there will be spillover benefits and additional investment from the conventional agricultural industries. For example, recent trends in high tech agriculture (e.g. irrigation monitoring, farm data management, smart input management, etc.) may have similar application for cannabis cultivation.

The economic market analysis estimates that the total size of the medicinal and adult use cannabis market (farm-gate value) equals approximately \$2.1 billion (after accounting for statutory changes and the impact of these proposed regulations). At 8.84% average corporate tax rate, this results in \$180 million dollars in tax revenues. Additional cultivation taxes equal approximately \$152.20 per pound (inclusive of flower and trim taxes) and thus would generate an additional \$201 million annually.

(E) The incentives for innovation in products, materials, or process.

The Department's regulations are likely to spur private business innovation for cannabis cultivation. Much like conventional agriculture, cannabis is dependent on land, water, and labor resource inputs. All are in

short supply in California and there is a clear incentive to develop technologies to more efficiently manage limited resources. For example, cannabis production is labor intensive during the harvest/trimming process. This requires skilled labor inputs, but there is potential for innovation of new mechanical harvesting approaches similar to the wine grape industry. Other areas for innovation might include identifying and labeling particular strains of cannabis with desirable qualities. This type of research is currently being conducted informally by cultivators. In general, the cannabis cultivation industry is young, evolving, and likely to innovate.

(F) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

The overall purpose of the Department's Program is to establish a regulatory licensing program that would ensure that medicinal and adult use cannabis cultivation operations would be performed in a manner that protects the environment, cannabis cultivation workers, and the general public from the individual and cumulative effects of these operations, and fully complies with all applicable laws.

One of the largest impacts of unregulated cannabis cultivation has been serious adverse impacts to the environment. The State Water Resources Control Board, the North Coast Regional Water Quality Control Board, and the California Department of Fish and Wildlife (FGC 12029 Findings) have documented a dramatic increase in the number of cannabis cultivation sites, corresponding increases in impacts to water supply and water quality, including the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash, and human waste. These impacts result from the widespread unpermitted, unmitigated, and unregulated impacts of land grading, road development, vegetation removal, timber clearance, erosion of disturbed surfaces and stream banks, stream diversion for irrigation, and temporary human occupancy without proper sanitary or waste disposal facilities which threaten the survival of endangered fish species as well as public safety. In addition, the actions of some cannabis cultivators, either directly or through irresponsible practices, result in the killing of wildlife, including the endangered Pacific Fisher.

In the absence of a formal regulatory framework the negative impacts associated with cannabis cultivation are expected to increase, resulting in an unregulated, unstudied, and potentially permanent negative impact on the environment and upon the peace, health, and safety of Californians.

As indicated on page 3 of this Notice, the Department prepared the Programmatic Environmental Impact Report (PEIR) in accordance with the provisions of the California Environmental Quality Act. Certified on November 13, 2017, the PEIR provides stakeholders, including the public, responsible agencies, and cannabis cultivators with information about the potential significant environmental impacts associated with the adoption and implementation of these statewide regulations and mitigations to address significant environmental impacts at cannabis cultivation sites in California.

The potential improvements in public health, safety, and environmental outcomes were not quantified in the Department's SRIA analysis. Quantified benefits — in terms of change in related industry purchases — are summarized in Table 32 of the SRIA. These benefits result from direct regulatory cost to cultivators, which in turn increase purchases and generate economic activity in other industries. The net increase in terms of output value equals \$140 million, as shown in Table 32 of the SRIA.

SUMMARY OF DEPARTMENT OF FINANCE COMMENTS AND CDFA RESPONSE

The Department of Finance (Finance) provided five comments to the Department's Standardized Regulatory Impact Assessment (SRIA), which generally address two action items: state and local costs and industry projections. A summary of the comments and the Department's responses are below:

Finance Comment #1: "[T]he total regulatory costs should include both state and local costs. Even though departments do not have control over local costs, the regulations require that state-licensed entities comply with local requirements. Thus entities have no choice about paying the local costs. However, we recommend discussing all three numbers together when identifying regulatory costs (the total, the state component, and the local component), as this makes it clear to the public what they should be commenting on and to whom."

Finance Comment #2: "[T]he SRIAs should use likely local costs in the modeling, not straight averages. Some local jurisdictions have chosen very high fees and taxes to discourage cannabis businesses, and including these will make it seem as though the regulated industry is not viable. However, if entities have a choice in where to locate, they will choose lower-cost jurisdictions, and the likely local cost should make the regulated industry viable. This could also help locals figure out if they have chosen their fees appropriately as well."

These first two comments are important, and related, and the Department has addressed them as follows. First, the Department has revised the tradeoff analysis

to demonstrate the effect of regulatory cost only, regulatory cost plus state and local taxes, and regulatory cost plus state taxes only. This allows the reader to see the effect of local taxes and fees on the illustrative tradeoff analysis presented in the SRIA. The Department also clarified that the tradeoff analysis is comparing the risk premium to the regulator costs (and regulatory risk premium) and does not show the net income to the grower (e.g. risk preferences are an important consideration). The conclusion is consistent with the comments above: namely, high local taxes discourage cultivators from locating in those areas, but other areas will have lower taxes and the market will succeed.

The Department also added two points of clarification regarding the tradeoff analysis. First, we note that the local taxes shown represent the average of the counties that currently have taxes in place only, and that many counties do not have taxes (or may be considering lower taxes). Second, the Department clarified that the tradeoff analysis does not consider cultivator risk preferences. In practice, many cultivators that decide to participate in the legal market are likely to be risk averse, which all else equal, would encourage participation in the market (the risk premium would be understated as presented in the analysis).

Finally, the Department adjusted the local costs (fees/permits and taxes) and included them as a regulatory cost in two ways. Local fees and permits were already included in the regulatory cost in the draft cultivation SRIA. The Department moved the local taxes into the regulatory compliance costs. Next, the Department adjusted the total combined local fees and taxes to acknowledge that many of these fees and taxes are uncertain at the local level, and it is likely that many local taxes and fees will be set lower than the current average reported in the SRIA. In addition, cultivators are more likely to locate in counties with lower fees and taxes, thus the averages presented in the SRIA would be expected to decrease for this reason as well. Since the Department has no basis for estimating local fees and taxes in counties that have not yet reported what they might be, it adjusted the local regulatory costs by setting the local taxes to zero in the economic impact analysis. That is, the local fees and permitting costs are included and set equal to the average in the sample counties (which is biased upward), and the taxes are set to zero. Using this approach the Department is able to avoid overstating local fees and taxes while still demonstrating the multiplier effects the additional local revenues will have in local economies. This is a reasonable approximation — given the complete, dearth of information — to adjust for the upward bias in the local fees and permit costs and acknowledge that combined fees and taxes are likely to be lower in counties where cultivators actually choose to locate.

Additional discussion along these lines were added to the SRIA to clarify: (i) local costs shown in the SRIA are biased upward, (ii) local taxes are set to zero in the economic impact analysis to adjust for this bias, (iii) high local fees/taxes will push cultivators to other counties with lower fees and taxes, and (iv) the SRIA shows the combined net effect of local fees and taxes as required. The net result is that the economic impact numbers do not change (local fees were also included), but the Department moved local taxes over to regulatory compliance costs and clearly stated that local taxes and fees are included, and adjusted for the upward bias in the sample average local fees and taxes, as requested. This makes the point that local taxes and fees can be burdensome on the regulated industry and have unintended consequences.

Finance Comment #3: “[T]he SRIAs should make it clear what is likely to happen to the industry over time, rather just in equilibrium after everyone adjusts to being regulated. We know from other states that the first year of a regulated industry has higher prices, tighter supply, and a great deal of entry and exit for businesses. After that, entities seem to have figured out how to comply. Prices should fall, supply should expand, and there should be more stability. Since it can be difficult to model that first year, it might be best to model the eventual equilibrium, disclose that getting there will take some time, and discuss the dynamics of how the market gets there qualitatively. This should help set expectations for the public and ease worries that the industry will figure it out.”

The Department included an additional subsection in the SRIA under the “SRIA Baseline” discussion to clearly state that we are modeling an industry in equilibrium, but it will take several years to adjust this equilibrium. The economic story is consistent with everything described above — namely, there will be downward price pressure as supply expands with cultivators entering the market.

Finance Comment #4: “I should also mention that our official comment letters will make it clear that these cannabis SRIAs have a unique baseline. Usually baselines cannot include the effects of policies that are not legally binding yet, even if they are expected to be binding at the time of implementation. For these SRIAs, since they are tied together, the impacts only makes sense by assuming the other regulations are in place.”

The Department welcomes this additional clarification and agrees that this is an unusual situation.

Finance Comment #5: “Finally, since we were discussing state and local costs, we checked with our budget analysts for your departments. It appears that the SRIAs assume revenues for departments that are inconsistent with the latest information the budget side has. Please check with your departments to ensure that noth-

ing has changed that should be reflected in the modeling.”

The Department clarified the agency budget for the current fiscal year (as specified in the SRIA), and updated 3–year projections based on the information contained in this current SRIA. We understand that the last BCP provided to Finance was based on the MCCP licensing costs. These were derived for a different market size and set of regulations. The current projections are consistent with the current harmonized SRIA.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which this action is proposed, 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 and equally effective in implementing the statutory policy or other provisions of law.

Two alternative Department regulations were considered in the economic analysis and ultimately rejected: (i) flat cultivation licensing fees, and (ii) higher fines for cultivators that are found to be out of compliance with the Department regulations.

The first alternative considers a revised fee structure where the application and license cost is the same for all license types. It is rejected because it increases regulatory costs to small cultivators and outdoor cultivators, putting them at a disadvantage relative to larger, higher productivity cultivators. The market impacts show this alternative would result in fewer statewide economic benefits than the preferred alternative as large mixed–light and indoor cultivators push out small cultivators. Small and outdoor cultivators already shoulder a larger share of Department regulatory costs.

The second alternative considers fines that are triple the level proposed in the preferred alternative. This effectively increases the regulatory risk premium (which is modeled as a direct increase in cost to cultivators), and corresponding incentives to participate in the regulated market. It is rejected because it results in lower market participation across all cultivation license types. The market impacts show this alternative would result in fewer statewide economic benefits than the preferred alternative as fewer cultivators enter the industry and stay in the unregulated market.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

Amanda Brown
California Department of Food and Agriculture
CalCannabis Cultivation Licensing
P.O. Box 942871
Sacramento, CA 94271
Phone: (916) 263–0801
Email: CalCannabisRegs@cdfa.ca.gov

The backup contact person for these inquiries is:

Melissa Eidson
California Department of Food and Agriculture
CalCannabis Cultivation Licensing
P.O. Box 942871
Sacramento, CA 94271
Phone: (916) 263–0801
Email: CalCannabisRegs@cdfa.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the express terms of the proposed regulations. A copy of the initial statement of reasons and the proposed regulations in underline may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. Requests should be directed to Ms. Amanda Brown at the mailing or email address specified above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearings and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which 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 Department adopts the revised regulations. Any person interested may obtain a copy of any modified regulations prior to the date of adoption by contacting Ms. Amanda Brown at the mailing or email address specified above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Amanda Brown at the mailing or email address specified above.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (<http://cannabis.cdfr.ca.gov/>).

TITLE 16. BUREAU OF CANNABIS CONTROL

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

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 state-

ments 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 legisla-

tion 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 li-

censes; 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 streamlined 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 applicant’s 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 judgments, 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 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, 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 recordkeeping 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 are 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 re-

cipient 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 Bu-

reau. 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 ad-

justing 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 in the security of the premises of all licensed cannabis businesses. This is expected to result in a decrease in 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

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 issues, 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. 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 sam-

ples may allow smaller local laboratories to compete with large labs servicing centralized locations. We are monitoring the license process for testing laboratories to better anticipate if there are 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 quar-

antined 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.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

Title 17, California Code of Regulations DPH-17-010 Cannabis Manufacturing Licensing

Notice is hereby given that the California Department of Public Health (Department) is proposing the regulation described below. This notice of proposed rulemaking commences a rulemaking to make the regulation permanent after considering all comments, objections, and recommendations regarding the regulation.

PUBLIC PROCEEDINGS

The Department is conducting a 45-day written comment period during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in the Informative Digest/Policy Statement Overview section of this notice.

PUBLIC HEARING

The Department has scheduled public hearings to accept comments on the proposed action. Any person may present statements or arguments described in the Informative Digest. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

Dates, Times and Locations:

1. **July 30, 2018, 10:00 a.m.**, 900 E. Birch Street, Valencia Room, Brea, CA 92821
2. **August 20, 2018, 10:00 a.m.**, 901 Myrtle Avenue, Eureka, CA 95501

3. **August 27, 2018, 10:00 a.m.**, 8400 Edes Avenue, Oakland, CA 94621

An agenda for the public hearing will be posted at the time and place of hearing location.

WRITTEN COMMENT PERIOD

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on August 27, 2018, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier **"DPH-17-010 Cannabis Manufacturing Licensing"** in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 636-6220;
3. By United States Postal Service to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814; or
4. Hand-delivered to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814.

All submitted comments should include the regulation package identifier, **"DPH-17-010 Cannabis Manufacturing Licensing,"** author's name and mailing address.

AUTHORITY AND REFERENCE

The Department is proposing to adopt the proposed rulemaking under the authority provided in sections 26001, 26011.5, 26012, 26013, 26050.1, 26051.5, 26054.2, 26057, 26106, 26120, and 26130 of the Business and Professions Code.

The Department is proposing to add Chapter 13 to Division 1 of Title 17, California Code of Regulations in order to implement, interpret, or make specific sections 26000, 26001, 26010, 26011.5, 26012, 26013, 26030, 26031, 26050, 26050.1, 26051.5, 26053, 26054.2, 26055, 26057, 26058, 26060, 26062.5, 26067, 26070, 26106, 26120, 26121, 26130, 26131, 26132, 26133, 26134, 26135, 26140, 26150, 26160, 26161, 26180 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed regulations will implement the Department's responsibilities under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Act).

The proposed regulations will:

1. Establish the licensing scheme, including temporary licenses, for manufacturers of cannabis products, including the requirements for applications and the individuals or entities that are required to submit applications;
2. Establish licensing fees;
3. Set minimum standards for extraction processes;
4. Set minimum standards for sanitary manufacturing practices;
5. Establish licensee responsibilities for operations, including, among others, requirements related to security, training, recordkeeping, and disposal;
6. Establish quality and safety standards for finished manufactured cannabis products; and
7. Establish packaging and labeling standards for manufactured cannabis products.

BACKGROUND

The Department is one of several state agencies with regulatory authority under the Act. Primary responsibilities for administration and enforcement of the Act are divided between:

- **California Department of Food and Agriculture (CDFA)**, which will license and regulate cannabis cultivators and oversee the state track-and-trace system.
- **Bureau of Cannabis Control (Bureau)** in the Department of Consumer Affairs, which will license and regulate retailers, distributors, testing labs, and microbusinesses.
- **California Department of Public Health (The Department)**, which will license and regulate cannabis product manufacturers. The Department is also required to develop standards for the production and labeling of all adult-use and medical cannabis products.

The Department worked closely with the Bureau and CDFA during the regulation development process to ensure consistency, when appropriate.

Legislative History of Cannabis Regulation

In 1996, voters approved the Compassionate Use Act (CUA), which allowed patients and primary caregivers to obtain and use medical marijuana as recommended by a physician, and prohibits physicians from being punished or denied any right or privilege for making a

medical marijuana recommendation to a patient. In 2003, Chapter 875, Statutes of 2003 (Senate Bill (SB) 420) established the Medical Marijuana Program (MMP), which allowed patients and primary caregivers to collectively and cooperatively cultivate medical marijuana. It also established a medical marijuana card program for patients to use on a voluntary basis.

Passed in 2015, Assembly Bill (AB) 266 established the Medical Marijuana Regulation and Safety Act (MMRSA) for the statewide licensure and regulation of medical marijuana. The primary portion of MMRSA was contained in the California Business and Professions Code sections 19300–19360. Also passed in 2015, AB 243 and SB 643, in conjunction with AB 266, established the regulatory framework to regulate the cultivation, sale, testing, manufacturing and transportation of medical cannabis in California. In 2016, several provisions of the MMRSA were amended through SB 837, including a renaming of the law to the Medical Cannabis Regulation and Safety Act (MCRSA).

Prior to the enactment of the MMRSA, California had no regulatory oversight of cannabis at the state level. Some local jurisdictions regulated cannabis cultivation or dispensaries.

In November 2016, voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA legalized the use of marijuana in California for non-medical purposes for adults aged 21 and over. AUMA was codified in separate code sections from the MCRSA. In June 2017, the Governor signed SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), a budget trailer bill to combine AUMA and MCRSA into a single, unified law known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Act).

History of Regulatory Proposal

The Department initially released a rulemaking package in April 2017 (published April 28, 2017, in the Regulatory Notice Register) under the authority provided in MCRSA. Upon repeal of the MCRSA, the Department withdrew its rulemaking package. However, the package had already been through a 45-day public comment period and hundreds of public comments were submitted. The Department reviewed and considered all comments and made revisions to the text, as appropriate. The revised text, which also incorporated rules and requirements for adult-use cannabis, was released as emergency regulations in November 2017 and became effective December 7, 2017.

Previous to the adoption of emergency regulations, the Department of Consumer Affairs formed the state's Cannabis Advisory Committee under the Bureau of Cannabis Control. The Committee was formed under authority from Business and Professions Code Section 26014. The Committee's members were announced on

October 4, 2017, and meetings began on November 16, 2017. The Committee has met six times since the adoption of the emergency regulations and has made a series of recommendations to the agencies responsible for cannabis licensing. These recommendations come from subject-specific subcommittees, which include subcommittees on Enforcement, Microbusiness, Public Health and Youth, Retailers, Testing Laboratories, Cultivators, Distributors, Equity, Licensing Application, and Manufacturers.

Establishment of Permanent Regulations

This proposed rulemaking action will make the emergency regulations permanent. Some revisions to the emergency text have been made as a result of public comments received, as well as clarifications needed in response to questions received by the Department.

The Act, in Business and Professions Code (BPC) §26011.5, establishes protection of the public as the primary concern. The Department developed this regulatory proposal with that in mind by establishing the following:

- Safety requirements for extraction processes, especially volatile solvent extractions, to minimize potential negative effects;
- Security requirements to protect the physical safety of employees and to minimize the potential for diversion of cannabis or cannabis products;
- Standard operating procedures to protect the integrity of the cannabis product throughout the manufacturing process by preventing contamination; and
- Requirements to ensure uniform distribution of cannabinoids.

Policy Statement Overview

Problem Statement:

The Department is required to license manufacturers of cannabis products, to set manufacturing standards for cannabis products, and to set packaging and labeling standards for such products.

Objectives (Goals):

The objective of these proposed regulations is to implement the Department's responsibility under the Act to protect public health and safety through the licensing of cannabis product manufacturers, the establishment of safety standards for cannabis products, and the establishment of minimum standards for packaging and labeling of cannabis products.

Benefits:

By providing regulatory oversight to a previously unregulated industry, there are numerous benefits to the health and welfare of California residents, worker safety, and the state's environment. These include:

- consumer awareness and protections by establishing packaging and labeling requirements and setting product standards
- worker safety by setting minimum operational and labor requirements
- manufacturing and safety measures designed to protect workers and the public from accidents involving extractions

STATEMENTS OF DETERMINATIONS AND ECONOMIC ANALYSIS

In addition to the following determinations, the Department has prepared a Standardized Regulatory Impact Analysis (SRIA), which is required for major regulations by the Administrative Procedure Act. Due to its extensive length and in the interests of ease of reading for the regulated public, the SRIA has been included as a separate document in this regulatory package.

EVALUATION AS TO WHETHER THE REGULATIONS ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS

The Department has made a determination that these regulations are not inconsistent or incompatible with existing state regulations. As the oversight of cannabis commercial activity is a newly created state responsibility, no other state regulations are already in existence that address the same topic.

DOCUMENTS INCORPORATED BY REFERENCE

The incorporation by reference of requirements published by the United States Food and Drug Administration, the United States Department of Agriculture, and the United States Consumer Product Safety Commission in Sections 40252, 40270, 40272, 40306, and 40415 is appropriate as publishing these documents in the California Code of Regulations would be cumbersome, impractical, and unnecessary. The documents consist of numerous pages of text. The documents are easily available to the public, and will be made available on the Department's website, and can be provided to anyone upon request to the Department.

The incorporation by reference in Section 40126 of Form CDPH 9041 (11/17) is appropriate for ease of use to the regulated industry. The form is designed so that individuals can complete it electronically, then mail or email it to the Department. It is unnecessary to duplicate the information in the text of the regulation itself, as adopting the form by reference will provide clarity and ease of use.

The following documents are incorporated by reference in the proposed regulation text:

1. Form CDPH 9041 (11/17)
2. United States Food and Drug Administration (USFDA), Defect Levels Handbook: The Food Defect Action Levels, revised February 2005.
https://www.fda.gov/RegulatoryInformation/Guidances/ucm056174.htm#CH_PTA
3. USFDA, 21 Code of Federal Regulations, Part 120, subpart B, revised January 2001.
<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/Juice/JuiceHACCPRegulations.pdf>
4. United States Department of Agriculture (USDA), FSIS Compliance Guideline for Meat and Poultry Jerky Produced by Small and Very Small Establishments: 2014 Compliance Guideline.
<https://www.fsis.usda.gov/wps/wcm/connect/5fd4a01d-a381-4134-8b91-99617e56a90a/Compliance-Guideline-Jerky-2014.pdf?MOD=AJPERES>
5. USFDA, 21 Code of Federal Regulations, Part 700, subpart B, revised March 2016.
<https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=700&showFR=1&subpartNode=21:7.0.1.2.10.2>

NONDUPLICATION

These proposed regulations include many of the statutory provisions imposed by the Act. Such provisions are duplicated in these proposed regulations in order to provide clarity and ease of understanding to the reader, and to provide a single location in which members of the public and the regulated industry can find applicable requirements. These proposed regulations should not be considered duplicative of federal law, even in instances where federal law has been incorporated by reference. Due to the nature of cannabis products, specifically that they are considered by statute neither a food nor a drug, existing federal rules are not applicable to cannabis products. Specific inclusion of the federal rules in the Department's regulations is necessary for the Department to hold cannabis product manufacturers responsible for the same health and safety precautions as manufacturers of food and drug products.

MANDATED BY FEDERAL LAW OR REGULATIONS

The Department has made a determination that this proposal is not mandated by federal law or regulations.

LOCAL MANDATE

The Department has determined that this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with Section 17500) of division 4 of the Government Code.

FISCAL IMPACT ASSESSMENT

- A. Cost to Any Local Agency or School District:** None.
- B. Cost or Savings to Any State Agency:** Funding for the Department for FY 2017–18 is \$13.5 million appropriated from the Cannabis Control Fund.
- C. Other Nondiscretionary Cost or Savings Imposed on Local Agencies:** None.
- D. Cost or Savings in Federal Funding to the State:** None.

HOUSING COSTS

The Department has determined that this proposed action will not have an impact on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The Department has determined that the proposed regulatory action would have a significant economic impact on California business enterprises and individuals that statewide is over \$50 million.

The following businesses will be affected:

- Manufacturers of cannabis extracts.
- Manufacturers of cannabis products.

The projected reporting, recordkeeping, and other compliance requirements that would result from the proposed action include:

- (1) The following records are required to be kept:
 - a. The acquisition of cannabis, including raw cannabis or cannabis extract;
 - b. The disposition of all acquired cannabis;
 - c. Employee training activities;
 - d. Equipment calibration and maintenance; and
 - e. Operational activities.

- (2) The following compliance requirements will be imposed:
 - a. Licensees must develop standard operating procedures and adhere to minimum standards related to sanitary manufacturing practices;
 - b. Licenses must establish minimum security requirements;
 - c. Licensees must establish inventory control procedures;
 - d. Licensees must adhere to specified packaging and labeling requirements.
- (3) There are no specific reporting requirements beyond the recordkeeping requirements.

The Department has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

STATEMENT OF RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA)

The Department has determined that the regulations affect the following as described:

- A. The creation or elimination of jobs within the State of California.** The proposal will positively impact the creation of jobs in California. See the SRIA for further details.
- B. The creation of new businesses or the elimination of existing businesses within the State of California.** The proposal will impact the creation of new businesses or result in the elimination of existing businesses within California. See the SRIA for further details.
- C. The competitive advantages or disadvantages of businesses currently doing business within the State of California.** The proposal will impact the competitive advantages or disadvantages of businesses currently doing business in California. See the SRIA for further details.

- D. The increase or decrease of investment in the state.** The proposal will impact the level of investment in the state. See the SRIA for further details.
- E. The incentive for innovation in products, materials, and processes.** The proposal will impact the incentive for innovation. See the SRIA for further details.
- F. The benefits of the regulations including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment or quality of life.** This proposal will benefit public health and safety of California residents and worker safety. See the SRIA for further details.

SUMMARY OF DEPARTMENT OF FINANCE REVIEW OF SRIA AND DEPARTMENT RESPONSE

Department of Finance Comment #1: “Manufacturers have choices about where to locate their business, and to the extent that they concentrate in jurisdictions where local permitting is cheaper, the regulatory costs will be lower. However, if this leads to more concentrated production, the demand for transportation of goods would likely be higher in these areas.”

Department Response: We agree with this statement. State taxes and fees on manufacturers are applied uniformly across the state and no distinction is made based on where the business is located. Once a manufacturer decides to operate, state taxes and fees are expected to have a minimal, if any, effect on the decision of where the manufacturer will locate. Local taxes and fees will be relevant to where businesses choose to establish themselves as well as proximity to suppliers, customers and other cannabis businesses.

The Humboldt Institute for Interdisciplinary Marijuana Research (HIIMR), an economic team based at California State University, Humboldt, and contracted by the Department to conduct research and economic analyses for this regulatory package, estimates that for manufacturers, more than one third of the total Department regulatory costs on manufacturers is due to the local component while less than two thirds is due to the state component. Local costs would total \$49.6 million or 6.4 percent of manufacturer sales in the long run. To arrive at this, HIIMR assumed a “typical” level based on local cannabis manufacturer taxes and fees, excluding very high jurisdictions. The ease with which a business is capable of moving to another local jurisdiction will affect a business’s ability to avoid high local fees. For manufacturers in particular, the incentive to locate in low-cost areas is strong because transportation costs are low relative to product value. The cannabis oil used

to make concentrates, edibles, and topicals is light in weight, and the resulting products are typically highly valued relative to their weight. Additionally, if a manufacturer wanted to relocate to a low-cost area, the moving costs are fairly modest and can be spread over a number of years. All of these factors suggest that manufacturers' location choices are highly responsive to city and county taxes and fees. Local jurisdictions that charge relatively high fees and taxes can expect to attract and retain relatively few manufacturers and receive little revenue. There has been anecdotal evidence that the revenue from cannabis fees turned out to be lower than expected in some localities.

The landscape continues to change at the local level. But a reasonable range of cost differences between jurisdictions can be assumed in order to demonstrate the importance of local fees. Suppose that a "low fee" jurisdiction has local annual fees equal to \$1,000 and taxes at 2 percent and that a "high fee" jurisdiction has local annual fees equal to \$5,000 and taxes at 10 percent. Simulations indicate that if all localities were "low fee" then total industry local costs would be 2.2 percent of manufacturer sales, while if all localities were "high fee" then total industry local costs would be 11 percent. This is a fairly large difference of almost nine percentage points in costs, which would have an impact on profits and likely cause firms to move to "low fee" jurisdictions. It is beyond the scope of the SRIA to calculate the revenue maximizing fee and tax rates, but cities are likely to find that lowering fees and tax rates attracts manufacturers, increases overall revenue, and generates additional transportation service.

DOF Comment #2: "The SRIA may be understating the amount of business creation and destruction by assuming many existing, unlicensed manufacturers become licensed. If instead they shut down and new businesses emerge, there would be more turnover."

Department Response: HIIMR has assumed that in the near future, manufacturers that seek a license (particularly for the adult-use segment) come mostly from the currently unlicensed California market. But it is certainly possible that many unlicensed manufacturers remain unlicensed or shut down, and this may be true especially for smaller-sized manufacturers. If this is the case, then adult-use manufacturers will largely be newly created firms. In the long run, the expectation is for a normal firm "turnover" of 10 percent of existing firms.

DOF Comment #3: "It is possible that input prices may fall more than the SRIA assumes. While this would hurt cultivator profits, it may help manufacturers and lead to greater expansion in the sector than estimated."

Department Response: There is uncertainty as to the magnitude of input price changes, but it is certainly

possible that cannabis flower and trim prices will fall greater than expected. As anticipated, the price of processed cannabis has continued to fall since the SRIA was submitted. In the last couple of years in California, and in states that have legalized adult-use cannabis, manufactured cannabis sales rise as a percent of cannabis sales. It is expected that this will continue into the future. HIIMR's analysis indicates that it will be easier for cannabis manufacturers to maintain stronger profit margins, given a greater ability to differentiate their products and exercise some market pricing power, as compared to those who sell flower cannabis products. In turn, if input prices are lower than expected and profits margins are large, it is expected that additional entry into the manufactured market is possible.

New regulatory feature

Subsequent to the completion of the SRIA, the licensing authorities have revised the requirements regarding "A" and "M" licenses. Cannabis businesses will only submit a single license application, rather than an application for each market. Upon licensure, businesses will be able to conduct commercial activities with all other licensees.

In HIIMR's modeling, this does not change the number of firms estimated to seek licensing. However, manufacturers who previously would have obtained two licenses will now obtain only one license. These manufacturers will also report higher sales, because sales will be the combination of adult-use and medical products. The impact on total license fees paid by the manufacturer is uncertain and depends on the distribution of firms by size and the number of new entrants, as existing medical licensees entering the adult-use market no longer need a separate license. The higher combined sales may push the manufacturer into a higher revenue tier with a higher license fee but the impact on total license fees paid depends on sales. For example, a manufacturer with \$750,000 in adult-use sales and \$750,000 in medical sales pays \$15,000 for each license, for a total of \$30,000. If the manufacturer need only purchase one combined license with sales of \$1,500,000, the license fee is \$25,000. On the other hand, a manufacturer with \$75,000 in adult-use sales and \$75,000 in medical sales pays \$2,000 for each license, for a total of \$4,000. If the manufacturer need only purchase one combined license with sales of \$150,000, the license fee is \$7,500.

This regulatory change will therefore have an ambiguous effect on total licensing costs for manufacturers that will be driven by the distribution of manufacturers in each license tier. The shape of this distribution will become more clear within the first year or two of licensing.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Department are estimated to be about \$50,000. See the attached SRIA for further details.

BUSINESS REPORTING REQUIREMENT

In order to protect public health and safety, the regulations establish minimum requirements for record-keeping by cannabis product manufacturers. Business and Professions Code section 26160 requires licensees to keep accurate records of commercial cannabis activity, and Business and Professions Code section 26067 requires the use of a track-and-trace program to track the movement of cannabis items through the distribution chain. It is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulatory action may affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department 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 regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Several elements of the proposed rulemaking package have alternatives that were considered by the Department prior to the commencement of this rulemaking:

1. Background investigations for all employees. The Department considered requiring that all persons employed by a manufacturing operation undergo a Live Scan criminal history check, as owners are required to do. This alternative was rejected as too costly for both the industry and the Department, with no corresponding increase in public health protection.

2. Product imprints. The Department considered mandating that a warning symbol be imprinted directly on edible products. Many infused products don't have a surface that is conducive to printing, stamping, or marking. The Department found no evidence that product imprints reduce exposure by minors.
3. Mandatory identification badges for cannabis industry employees. The Department decided not to mandate the use of identification badges. Identification badges can pose a risk of contamination in the manufacturing process. Other provisions of the regulation require jewelry and other items to be secured or removed so that they cannot dangle or fall into ingredients or products. Mandating the issuance of identification badges would run contrary to this provision. Nothing would prohibit a licensee from issuing identification badges if the licensee determines the use of such badges does not pose a risk of contamination and is appropriate to ensure the security of the premises.

CONTACT PERSON

Inquiries regarding the proposed regulatory action can be directed to Linda M. Cortez, with the Office of Regulations at (916) 440-7807, or the designated back-up contact, Dawn Basicano at (916) 440-7367.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file).

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 558-1710 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action

will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

INTERNET ACCESS

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov and by clicking on the following: Programs, Office of Regulations, and the Proposed Regulations link.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

Requirements for the Use of X-Ray in Mammography (DPH-10-005)

NOTICE IS HEREBY GIVEN that the California Department of Public Health (Department) proposes to amend Sections 30315.05 through 30320.90 in Division 1, Chapter 5, Subchapter 4, Group 3, Article 4.5. in title 17 of the California Code of Regulations (17 CCR). This notice of proposed rulemaking commences a rulemaking to make the regulations permanent after considering all comments, objections, and recommendations regarding the regulation.

PUBLIC PROCEEDINGS

The Department is conducting a 45-day written public proceeding during which time any interested person or such person's duly authorized representative may present statements, arguments or, contentions (all of which are hereinafter referred to as comments) relevant to the action described in the Informative Digest/Policy Statement overview section of this notice.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action described in this notice to:

California Department of Public Health
Office of Regulations
1415 L Street, Suite 500
Sacramento, CA 95814

Comments may be submitted by facsimile (FAX) at (916) 636-6220 or by e-mail to Regulations@cdph.ca.gov. The written comment period closes at **5:00 p.m. on August 27, 2018**. The Department will consider only comments received at the Department by that time. **Please include the package Identifier DPH-10-005.**

Written comments should include the author's contact information so that the Department can provide notification of any further changes to the regulation proposal.

PUBLIC HEARING

A public hearing has not been scheduled for this rulemaking. However, the Department will conduct a hearing if a written request for a public hearing is received from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8.

The Department will consider all comments received regarding the proposal equally, whether submitted in writing or through oral testimony at a public hearing.

ASSISTIVE SERVICES

The Department can provide assistive services such as the conversion of written materials into Braille, large print, audiocassette, and computer disk. For public hearings, assistive services can include sign-language interpretation, real-time captioning, note takes, reading or writing assistance. To request these assistive services, please call (916) 558-1710 (or California Relay at 711 or 1-800-735-2929), email Regulations@cdph.ca.gov or write to the Office of Regulations at the address noted above. Note: The range of assistive services available may be limited if requests are received less than 10 business days prior to a public hearing.

AUTHORITY AND REFERENCE

Authority: Health and Safety Code sections 100275, 114975, 115000, 115060, 131200

Reference: Health and Safety Code sections 101050, 115060, 115100, 115115, 115145, 115165, 123145, 131050, 131051, 131052, 151050

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Problem Statement: Currently, Department regulations continue to follow the federal MQSA accreditation process for certification of mammography service providers by FDA. These regulations were adopted when the Department was an FDA-approved Accreditation Body (AB) and performed those federal accreditation functions. However, the Department is no longer AB and no longer performs those federal functions. For a facility to provide, or continue to provide, mammography services, it must apply for, or renew, federal certification following the federal accreditation process, in addition to completing the state's process, under the California Mammography Quality Assurance Act (MQAA), for certifying X-ray machines used for mammography. Because the Department's regulations were developed for carrying out the federal accreditation process, the regulations are silent in how the state's MQAA machine certification process functions. Due to the differences between the federal and state processes and the regulatory silence regarding the state's machine certification process, mammography providers become confused resulting in diverting facility staff away from providing patient procedures, to regulatory issues, which in turn could reduce access to mammography services. As it pertains to interventional mammography that is not subject to the federal MQSA, current requirements are seldom appropriate, creating regulatory and enforcement confusion and inconsistencies that could also reduce access to these procedures. By amending the current regulations, facilities can focus on providing accessible and consistent patient care rather than on regulatory issues.

Anticipated Objectives and Benefits of the Proposed Regulation:

Objectives: Broad objectives of this proposed regulatory action are to:

- Reduce possible barriers to consistent and accessible mammography services by repealing the facility accreditation processes previously adopted for federal MQSA purposes.
- Clarify and emphasize the approval processes specific to the MQAA by restructuring existing regulations.
- Ensure standards for performance of interventional mammography are appropriate and consistent by clearly addressing it in regulation.

- Ensure and maintain public health and safety by removing regulatory barriers.
- Update existing regulations for clarity and consistency with current federal and state legislation.

Benefits: Anticipated benefits from this proposed regulatory action are:

- Increased patient care consistency between all mammography facilities.
- Increased access to mammography services.
- Increased clarity of approval processes for new providers of screening, diagnostic, and interventional mammography.
- Continued protection of the public health and safety.
- Updated, clear, and consistent regulations.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The Department evaluated this proposal to determine whether the proposed regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of both the Department's existing general regulations, and those regulations specific to the regulatory control of radioactive material. Some inconsistencies in those specific regulations were found and are addressed in this proposal. An Internet search of other state agency regulations was also performed and it was determined that no other state regulations addressed the same subject matter and that this proposal was not inconsistent or incompatible with other state regulations. Therefore, the Department has determined that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

AUTHORITY AND BACKGROUND

The Radiation Control Law (RCL), Health and Safety Code (H&S Code), sections 114960 et seq., authorizes the Department to promulgate regulations regarding sources of ionizing radiation for the protection of the health and safety of the public and radiation workers. The Radiologic Technology Act (RT Act), H&S Code 27(f)¹, authorizes the Department to promulgate regulations regarding certification and permitting of individuals who use X-rays on human beings for diagnostic or therapeutic purposes. The Mammography Quality Assurance Act of 1992 (MQAA), Statutes 1992, chapter 870, requires the Department to adopt registration and certification requirements for mammography equipment and individuals performing

¹ This short format "H&S Code 27" for a given Health and Safety Code section will be used throughout this document for brevity. For example, "H&S Code 27" means California Health and Safety Code section 27.

mammography. (H&S Code 115060(e) and 106965.) The regulations that implement, interpret and make specific the provisions of the RCL pertaining to MQAA (registration and certification of mammography equipment) are in 17 CCR 30315.10 through 30320.90², hereinafter referred to as “Article 4.5”. The regulations that implement, interpret and make specific the provisions of the RT Act pertaining to MQAA (certification of persons who apply X-ray to humans) are in 17 CCR, Division 1, Chapter 5, Subchapter 4.5 (commencing at section 30400). This proposal makes no changes to the RT Act regulations.

The governor of this state signed into law the Mammography Quality Assurance Act of 1992 (Stats. 1992, Ch. 870, § 2 (AB 2841)), which required individuals that perform mammography be certified pursuant to the RT Act, incorporated the May 1990 version of Appendix B of the “Rules of Good Practice for Supervision and Operation of Mammographic X-ray Equipment” (Rules of Good Practice) (Reference 1), as approved by the Radiologic Technology Certification Committee (RTCC), until registration and certification regulations for mammography equipment were adopted, and, among other requirements, specified financial penalties for violations of the RT Act and RCL. RTCC is the Department’s consultant regarding the RT Act as specified in H&S Code 114855.

In 1993, the President of the United States signed into law the Mammography Quality Standards Act of 1992 (MQSA) [Pub.L. No. 102–539]. The FDA issued interim regulations (58 Fed. Reg. 67558 (Dec. 21, 1993), amended by 59 Fed. Reg. 49808 (Sep. 30, 1994)) to implement MQSA. Those regulations established congressionally mandated uniform, national quality standards for mammography. MQSA requires that, to provide mammography services after October 1, 1994, persons providing such services are accredited by an approved accreditation organization and obtain a certificate from the Secretary of Health and Human Services. MQSA was reauthorized as the Mammography Quality Reauthorization Standards Act of 1998 [Pub.L. No. 105–248]. The FDA has issued final regulations (62 Fed. Reg. 55852 (Oct. 28, 1997), as amended by 63 Fed. Reg. 56555 (Oct. 22, 1998) and 64 Fed. Reg. 32404 (June 17, 1999)) that supersede and clarify the interim regulations. The final regulations are codified in Title 21, Code of Federal Regulations, Part 900 (21 CFR 900).

² The short format “17 CCR 30315.10” for a given–regulation found within title 17, California Code of Regulations will be used throughout this document for brevity.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department 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, 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 and equally effective in implementing the statutory policy or other provision of law.

Local Mandate: The Department has determined that this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs that require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Mandated by Federal Law or Regulations: Not applicable.

Other Statutory Requirements: None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: May result in minor staff time savings.

Cost or savings to any state agency: May result in minor staff time savings.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary 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 agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statewide adverse economic impact directly affecting businesses and individuals: The Department has determined that the proposed regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: No impact.

Business Reporting Requirement: No impact

Small Business Determination: The Department has determined that there would be an effect on small businesses subject to these regulations because small

businesses are currently required to comply with the regulations.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department analyzed whether and to what extent this proposal affects the following:

1. The creation or elimination of jobs within the State of California.

This proposal is unlikely to create or eliminate jobs as it does not create or repeal programs or processes.

2. The creation of new businesses or the elimination of existing businesses within the State of California.

This proposal is unlikely to create new businesses or eliminate existing businesses as it does not create or repeal programs or processes.

3. The expansion of businesses currently doing business within the State of California.

This proposal will not result in expansion of businesses as it does not create or repeal programs or processes.

4. The benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment.

This proposal increases benefits to residents by certifying only those radiation machines that are capable of providing quality mammography for the detection of breast cancer. This proposal increases benefits to worker safety by clarifying QA tests and responsible persons over such tests. This proposal would not significantly affect the state's environment because the radiation energy emitted from the use of X-ray equipment dissipates to normal atomic structures without environmental contamination.

CONTACT PERSONS

Inquiries concerning the subject matter in this notice may be directed to Truyen Nguyen of the Department's Radiologic Health Branch, at (916) 445-9570. For inquiries related to the regulatory process, to Veronica Rollin, Office of Regulations, at (916) 445-2529.

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. 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, and all information on which this rulemaking is based. Copies may be obtained by contacting the Office of Regulations at Regulations@cdph.ca.gov or by phone at (916) 558-1710.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department 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 Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the Office of Regulations at Regulations@cdph.ca.gov. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

A copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout are available via the Internet by clicking [here \(www.cdph.ca.gov\)](http://www.cdph.ca.gov).

TITLE 18. OFFICE OF TAX APPEALS

The Office of Tax Appeals Proposes to Adopt California Code of Regulations, Title 18, Division 4.1, *Office of Tax Appeals — Rules for Tax Appeals*; and Proposes to Repeal California Code of Regulations, Title 18, Division 2.1, Chapter 4, *Appeals from Actions of the Franchise Tax Board*; and Proposes to Adopt Amendments to California Code of Regulations, Title 18, Division 2.1, Section 5510, *General Application of Chapter 5*, and Section 5600, *Definitions, Board Hearing Procedures; Taxes Affected by This Chapter*.

NOTICE IS HEREBY GIVEN that the Office of Tax Appeals (OTA) proposes to adopt California Code of Regulations, title 18, division 4.1, *Office of Tax Appeals — Rules for Tax Appeals*, pursuant to the authority vested in it pursuant to Government Code sections 15679 and 15679.5. The proposed Office of Tax Appeals — Rules for Tax Appeals implement, interpret, and make specific the statutory provisions of the Taxpayer Transparency and Fairness Act of 2017 (Stats. 2017, Ch. 16) regarding the rules for appeals before the Office of Tax Appeals (OTA), a new agency created by this Act. The proposed regulations provide guidance to taxpayers, state taxing authorities, and the regulated public regarding the rules governing appeals before OTA, as explained in more detail below.

OTA also proposes to repeal California Code of Regulations, title 18, Division 2.1, Chapter 4, *Appeals from Actions of the Franchise Tax Board*, pursuant to the authority vested in it pursuant to Government Code sections 15679 and 15679.5. OTA further proposes to adopt amendments to California Code of Regulations, Title 18, Sections 5510, *General Application of Chapter 5*, and 5600, *Definitions, Board Hearing Procedures; Taxes Affected by This Chapter*, pursuant to the authority vested in it pursuant to Government Code sections 15679 and 15679.5.

Previously, on or around January 1, 2018, OTA promulgated under Division 4 of Title 18 of the California Code of Regulations, as an Emergency Regulation, the *Office of Tax Appeals Rules for Tax Appeals* (hereinafter OTA's Emergency Rules for Tax Appeals). (Cal. Code Regs. tit. 18, §§ 30100–30832.) If the proposed regulatory action is adopted; OTA intends to let OTA's Emergency Rules for Tax Appeals expire on December 31, 2018. OTA further intends the proposed regulatory action to become effective on January 1, 2019, so that

there is a seamless transition from OTA's Emergency Rules for Tax Appeals (under Division 4) to OTA's proposed permanent Rules for Tax Appeals (under Division 4.1). In summary, the proposed regulatory action would replace OTA's Emergency Rules for Tax Appeals as the governing procedure for the conduct of appeals before OTA.

A comment period has been established commencing on July 13, 2018, and closing on August 27, 2018. All inquiries should be directed to the contact person listed below.

PUBLIC HEARING

OTA has not scheduled a public hearing on this proposed action. However, OTA will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

AUTHORITIES

Office of Tax Appeals Rules for Tax Appeals

Proposed Regulations 30000, 30214, 30214.5, 30215; Government Code sections 15679, 15679.5.

Proposed Regulation 30101: Government Code section 15679; Health and Safety Code section 25215.74; Revenue and Taxation Code sections 20, 7051, 8251, 9251, 13170, 30451, 32451, 34013, 38701, 40171, 41128, 42020, 42103, 43501, 45851, 46601, 50152, 55301 and 60601.

Proposed Regulations 30102, 30103, 30104, 30105, 30106, 30201, 30202, 30203, 30204, 30205, 30206, 30207, 30208, 30209, 30210, 30211, 30211.5, 30212, 30213, 30216, 30217, 30218, 30219, 30220, 30221, 30222, 30223, 30224, 30301, 30302, 30303, 30304, 30310, 30311, 30312, 30313, 30314, 30315, 30316, 30401, 30402, 30403, 30404, 30405, 30410, 30411, 30412, 30413, 30420, 30421, 30430, 30431, 30432, 30433, 30501, 30502, 30503, 30504, 30505, 30601, 30602, 30603, 30604, 30605, 30606, 30607, 30701, 30702, 30703, 30704, 30705, 30706, and 30707: Government Code section 15679.

Board of Equalization Rules for Tax Appeals.

Repeal of Chapter 4, *Appeals From Actions of the Franchise Tax Board* (Regulations 5410 to 5465): Government Code sections 15679 and 15679.5.

Proposed Amendments to Regulations 5510 and 5600: Government Code sections 15679 and 15679.5.

REFERENCES

Office of Tax Appeals Rules for Tax Appeals

Proposed Regulation 30000: Government Code sections 15670, 15671, 15672, 15679, 15679.5.

Proposed Regulation 30101: Government Code section 15672; Health and Safety Code section 25215.45; Revenue and Taxation Code sections 6561, 6814, 6902, 7710, 8128, 8851, 9152, 12428, 12978, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 30261, 30362, 32301, 32402, 38441, 38602, 40091, 40112, 41033, 41085, 41101, 43301, 43452, 45301, 45652, 46351, 46502, 50114, 50140, 55081, 55222, 60350 and 60522.

Proposed Regulation 30102: Government Code sections 11425.10, 15670–15672, 15676, and 15679.5.

Proposed Regulation 30103: Government Code sections 15570.54, 15600, 15672, 15674; Revenue and Taxation Code sections 20, 18533, 19006, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19322.1, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, and 20645.

Proposed Regulation 30104: Article III, section 3.5 of the California Constitution; Government Code sections 15570.54, 15600, 15672, and 15674; Revenue and Taxation Code section 19570.

Proposed Regulation 30105: Government Code sections 15570.54, 15600, 15672, and 15674; Revenue and Taxation Code sections 20, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, and 20645.

Proposed Regulation 30106: Government Code sections 15570.54, 15600, 15672, and 15674; Revenue and Taxation Code section 20.

Proposed Regulation 30201: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections, 15672, and 15674; Revenue and Taxation Code sections 20, 6561, 6561.5, 7710.5, 8851.5, 19045, 19047, 19048, 19085, 19087, 19104, 19331, 19333, 19334, 19345, 19346, 20645, 30261.5, 38442, 40092, 41086, 41091, 43302, 45302, 46352, 50115, 55082, and 60351.

Proposed Regulation 30202: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 15672, and 15674; Revenue and Taxation Code sections 20, 6561, 6561.5, 6566, 7710.5, 8851.5, 19045, 19047, 19048, 19085, 19087, 19104, 19331, 19333, 19334, 19345, 19346, 20645, 30261.5, 38442, 40092, 41086, 41091, 43302, 45302, 46352, 50115, 55082, and 60351.

Proposed Regulation 30203: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6538.5, 6562, 7700.5, 7711, 8828.5, 8852, 18533, 19043.5, 19045, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19334, 19343, 19346, 20645, 30262, 38443, 40093,

41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30204: Business and Professions Code sections 22973.1, 22977.2, and 22979; Civil Code of Procedure 1013; Government Code sections 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6538.5, 6562, 7700.5, 7711, 8828.5, 8852, 18533, 19043.5, 19045, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19334, 19343, 19346, 20645, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulations 30205 and 30206: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6538.5, 6562, 7700.5, 7711, 8828.5, 8852, 18533, 19043.5, 19045, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19334, 19343, 19346, 20645, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30207: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11440.20, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6538.5, 6539, 6562, 6566, 7700.5, 7707, 7711, 8828.5, 8829, 8852, 8855, 18533, 19043.5, 19045, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19334, 19343, 19346, 20645, 30244, 30262, 30265, 38434, 38443, 38447, 40093, 40097, 41087, 41091, 43303, 43307, 45303, 45307, 46353, 46357, 50116, 50120, 55087, 55083, 60352, and 60340.

Proposed Regulation 30208: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11415.40, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6538.5, 6562, 7700.5, 7711, 8828.5, 8852, 18533, 19043.5, 19045, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19334, 19335, 19343, 19345, 19346, 20645, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30209: Business and Professions Code sections 22970.2, 22973.1, 22977.2, and 22979; Government Code sections 15606, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6538.5, 6562, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 20645, and 34013.

Proposed Regulation 30210: Government Code sections 11445.10, 11445.30, 11445.40, 11470.10, 11511.5, 15679.5.

Proposed Regulation 30211: Government Code sections 15676 and 15678; Revenue and Taxation Code section 19523.5.

Proposed Regulation 30211.5: Evidence Code sections 912, 954, 980; Revenue and Taxation Code sections 7099.1, 21028.

Proposed Regulation 30212: Government Code sections 11507.3, 15679.5.

Proposed Regulation 30213: Government Code sections 11515, 11523; Evidence Code sections 451, 452.

Proposed Regulations 30214 and 30214.5: Government Code sections 11511, 11512, 11513, 11414, 11450.05 to 11450.50, and 15670.

Proposed Regulation 30215: Government Code sections 11413.10 to 11413.80, and 15670.

Proposed Regulation 30216: Government Code sections 11513, 15674 and 15679.5.

Proposed Regulation 30217: Government Code sections 15606, 15670, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 19714, and 20645.

Proposed Regulations 30218 and 30219: California Constitution article VI, section 18, subdivision (m); Government Code sections 11475, 11475.10, 11475.20, 11475.30, 11475.40, 11475.50, 11475.60, 11475.70, 15606, 15670, 15672, 15674, 15676, and 15679.

Proposed Regulation 30220: Government Code sections 15672 and 15674; Revenue and Taxation Code sections 6562, 7711, 8852, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30221: Government Code section 15672; Revenue and Taxation Code sections 7093.5, 9271, 30459.1, 40211, 41171, 43522, 45867, 46622, 50156.11, 55332, and 60636.

Proposed Regulations 30222, 30223, 30224: Government Code sections 15672 and 15674; Revenue and Taxation Code sections 6562, 7711, 8852, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30301: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6538, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, and 20645.

Proposed Regulations 30302, 30303, 30304: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, and 20645.

Proposed Regulation 30310: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6456, 7202, 7203, 7261, 7262, 7270, 7657.5, 8880, 18533, 19006, 19045, 19047, 19048, 19084, 19085, 19087, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 30285, 32258, 38454.5, 40105, 41099, 43159.1, 43159.2, 45158, 46159, 50112.6, 55045.1 and 60210.5.

Proposed Regulations 30311, 30312, 30313, 30314, and 30315: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 18533, 19045, 19047, 19048, 19084, 19085, 19087, 19324, 19331, 19333, 19334, 19335, 19343, 19345, and 19346.

Proposed Regulation 30316: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 18533, 19006, 19045, 19047, 19048, 19084, 19085, 19087, 19324, 19331, 19333, 19334, 19335, 19343, 19345, and 19346.

Proposed Regulation 30401: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11440.20, 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6562, 7711, 8852, 18533, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19331, 19333, 19343, 19345, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30402: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11440.20, 11445.30, 11509, 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6562, 7711, 8852, 18533, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19331, 19333, 19343, 19345, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30403: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11425.10, 11435.15, 11435.20, 11435.25, 11435.55, 11435.60, 11440.20, 11445.30, 11509, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6562, 7711, 8852, 18533, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19331, 19333, 19343, 19345, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30404: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11415.40, 11440.20, 11445.30, 11509, 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6562, 7711, 8852,

18533, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19331, 19333, 19343, 19345, 30262, 38443, 40093, 41087, 3303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30405: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11440.20, 11445.30, 11509, 15570.54, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 6562, 7711, 8852, 18533, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19331, 19333, 19343, 19345, 30262, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083, and 60352.

Proposed Regulation 30410: Government Code sections 11513 and 11528.

Proposed Regulation 30411: California Constitution article VI, section 18, subdivision (m); Government Code sections 11425.30, 11425.40, 11475, 11475.10, 11475.20, 11475.30, 11475.40, 11475.50, 11475.60, 11475.70, 15670, 15672, 15674, and 15679.5.

Proposed Regulation 30412: California Constitution article VI, section 18, subdivision (m); Government Code sections 11425.50, 11425.60, 11475, 11475.10, 11475.20, 11475.30, 11475.40, 11475.50, 11475.60, 11475.70, 15670, 15672, 15674, 15679, and 15679.5; Revenue and Taxation Code sections 20, 19047, 19087, 19331, 19333, 19335, and 19345.

Proposed Regulation 30413: Government Code sections 11425.10, 11425.50, and 15672; Revenue and Taxation Code sections 20, 19047, 19333, and 19345.

Proposed Regulation 30420: Government Code sections 11445.30, 11509, 11511, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 19047, 19087, 19333, and 19345.

Proposed Regulation 30421: Government Code sections 11445.30, 11509, 11511.5, 11512, 15672, 15674, and 15679; Revenue and Taxation Code sections 20, 19047, 19087, 19333, and 19345.

Proposed Regulation 30430: Government Code sections 6254, 11124.1, 11425.10, 11425.20, 15619, 15674, and 15675; Revenue and Taxation Code sections 20, 7081, 19542, 19545, and 20645.

Proposed Regulations 30431 and 30432: Government Code sections 6254, 11124.1, 11425.10, 11425.20, 15619, 15674, 15675, and 15676.5; Revenue and Taxation Code sections 20, 7081, 19542, 19545, and 20645.

Proposed Regulation 30433: 15676.5, 15679. Reference: Government Code sections 6254, 11124.1, 11425.20, 15619, 15674, and 15676.5; Revenue and Taxation Code sections 20, 7081, 19542, 19545, and 20645.

Proposed Regulation 30501: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11425.10, 11425.50, 15570.54,

15672, 15674, 15675, and 15679; Revenue and Taxation Code sections 20, 40, 8852, 8853, 18533, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 30263, 38445, 40095, 41089, 43305, 45305, 46355, 50118, 55085, and 60354.

Proposed Regulation 30502: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11425.10, 11425.50, 11425.60, 15570.54, 15672, 15674, 15675, and 15679; Revenue and Taxation Code sections 20, 40, 8853, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 30263, 38445, 40095, 41089, 43305, 45305, 46355, 50118, 55085, and 60354.

Proposed Regulation 30503: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11425.10, 11425.50, 11425.60, 15570.54, 15672, 15674, 15675, and 15679; Reference: Revenue and Taxation Code sections 20, 40, 8853, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 30263, 38445, 40095, 41089, 43305, 45305, 46355, 50118, 55085, and 60354.

Proposed Regulation 30504: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11425.10, 11425.50, 11425.60, 15570.54, 15672, 15674, 15675, and 15679; Revenue and Taxation Code sections 20, 40, 8853, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 30263, 38445, 40095, 41089, 43305, 45305, 46355, 50118, 55085, and 60354.

Proposed Regulation 30505: Business and Professions Code sections 22973.1, 22977.2, and 22979; Government Code sections 11425.10, 11425.50, 15570.54, 15672, 15674, 15675, and 15679; Reference: Revenue and Taxation Code sections 20, 40, 8852, 8853, 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346, 30263, 38445, 40095, 41089, 43305, 45305, 46355, 50118, 55085, and 60354.

Proposed Regulations 30601, 30602, 30603, 30604, 30605, 30606, and 30607: Government Code section 15672; Revenue and Taxation Code sections 19048, 19334, and 19346.

Proposed Regulation 30701: Government Code sections 15670, 15674, and 15676; Revenue and Taxation Code sections 20, 7091, 7156, 8269, 9269, 18533, 19043.5, 19047, 19085, 19104, 19333, 19345, 20645, 21013, 30458.9, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330, and 60630.

Proposed Regulation 30702: Government Code sections 15670, 15674, 15676; Revenue and Taxation Code sections 20, 7156, 18533, 19043.5, 19047, 19085,

19104, 19324, 19331, 19333, 19334, 19343, 19345, 19346, 20645, and 21013.

Proposed Regulation 30703: Government Code sections 15670, 15674, 15676; Revenue and Taxation Code sections 7091, 7156, 8269, 9269, 30458.9, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330, and 60630.

Proposed Regulation 30704: Government Code sections 15672 and 15674; Revenue and Taxation Code sections 7091, 7156, 8269, 9269, 19717, 30458.9, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330, and 60630.

Proposed Regulation 30705: Government Code sections 11440.20, 15670, 15674, and 15676; Revenue and Taxation Code sections 20, 7091, 7156, 8269, 9269, 18533, 19047, 19085, 19104, 19333, 19345, 20645, 21013, 30458.9, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330, and 60630.

Proposed Regulation 30706: Reference: Government Code sections 11440.20, 15670, 15674, and 15676; Revenue and Taxation Code sections 20, 7091, 7156, 8269, 9269, 18533, 19047, 19085, 19104, 19333, 19345, 20645, 21013, 30458.9, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330, and 60630.

Proposed Regulation 30707: Government Code sections 11440.20, and 15674; Revenue and Taxation Code sections 7091, 7156, 8269, 9269, 30458.9, 38708, 40209, 41169, 43520, 45865, 46620, 50156.9, 55330, and 60630.

Board of Equalization Rules for Tax Appeals

Repeal of Chapter 4, *Appeals from Actions of the Franchise Tax Board*: Government Code sections 15600, 15672 and 15674; Revenue and Taxation Code sections 20 and 20.5.

Proposed Amendments to Regulations 5510 and 5600: Government Code sections 15600, 15672 and 15674; Revenue and Taxation Code sections 20 and 20.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW PURSUANT TO GOVERNMENT CODE SECTION 11346.5(a)(3)

Summary of Existing Laws and Regulations

The Taxpayer Transparency and Fairness Act of 2017 (Stats. 2017, Ch. 16), as amended by Assembly Bill 131 (Stats. 2017, Ch. 252), collectively referred to hereinafter as “the Act,” created OTA on July 1, 2017. The Act further transferred to OTA the various duties, powers, and responsibilities of the State Board of Equalization (hereinafter “board” or “BOE”) necessary or appropriate to conduct appeals hearings, except for those duties, powers, and responsibilities imposed or conferred upon the board by the California Constitution.

Therefore, under the Act, BOE’s constitutional duties, powers, and responsibilities are now limited to the following five items:

- (1) The review, equalization, or adjustment of a property tax assessment pursuant to Section 11 of Article XIII of the California Constitution, and any duty, power, or responsibility conferred by statute on the board in connection with that review, equalization, or adjustment.
- (2) The measurement of county assessment levels and adjustment of secured local assessment rolls pursuant to Section 18 of Article XIII of the California Constitution, and any duty, power, or responsibility conferred by statute on the board in connection with that measurement and adjustment.
- (3) The assessment of pipelines, flumes, canals, ditches, and aqueducts lying within two or more counties and property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the state, and companies transmitting or selling gas or electricity pursuant to Section 19 of Article XIII of the California Constitution, and any duty, power, or responsibility conferred by statute on the board in connection with that assessment.
- (4) The assessment of taxes on insurers pursuant to Section 28 of Article XIII of the California Constitution and any duty, power, or responsibility conferred by statute on the board in connection with that assessment.
- (5) The assessment and collection of excise taxes on the manufacture, importation, and sale of alcoholic beverages in this state pursuant to Section 22 of Article XX of the California Constitution, and any duty, power, or responsibility conferred by statute on the board in connection with that assessment and collection.

(Gov. Code, §15600, subd. (a).) Effective July 1, 2017, the newly created agency “The California Department of Tax and Fee Administration” (CDTFA) is the successor to, and is vested with, all of the duties, powers, and responsibilities of BOE with respect to the administration of taxes and fees, except those five areas of constitutional duties, powers, and responsibilities described above. (Gov. Code, §15570.22.)

Furthermore, as of January 1, 2018, OTA is the successor to, and is vested with all the duties, powers, and responsibilities of the BOE necessary or appropriate to conduct appeals hearings with respect to tax and fee programs that were previously the duties, powers, or responsibilities of BOE. (Gov. Code, § 15672.) This includes hearing appeals of tax and fee programs administered by the Franchise Tax Board (FTB) and CDTFA.

For purposes of the Act, OTA has jurisdiction to hear the following appeals:

- (1) A petition, including, but not limited to, a petition for redetermination, petition for reassessment, petition for reconsideration of successor liability, or petition for rehearing.
- (2) Administrative protest with respect to a tax or fee administered by the California Department of Tax and Fee Administration.
- (3) Claim, including a claim for refund with respect to a tax or fee administered by the California Department of Tax and Fee Administration.
- (4) Appeal from an action of the Franchise Tax Board filed under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code or Chapter 1 (commencing with Section 20501) and Chapter 4 (commencing with Section 20641) of Part 10.5 of Division 2 of the Revenue and Taxation Code.
- (5) Application, including, but not limited to, an application for administrative hearing.
- (6) Any other item that may be scheduled for a hearing, including, but not limited to, requests for relief of taxes, fees, interest, or penalties.

(Gov. Code, §15671.) The Act does not specifically list the tax and fee programs subject to appeal before OTA, but it would include all those programs administered by CDTFA.

Beginning January 1, 2018, tax appeals panels consisting of three administrative law judges (ALJs) shall conduct all appeals hearings for those duties, powers, and responsibilities transferred to OTA. (Gov. Code, §15674.) Pursuant to the Act, a person may be represented on an appeal by any authorized person or persons over the age of 18. (Gov. Code, §15676.) OTA must establish a process under which a person filing an appeal may request a closed hearing, which includes objective criteria for determining whether to grant such a request. (Gov. Code, §15676.5.) To the extent not inconsistent with the Act, OTA must conduct all appeals hearings and proceedings pursuant to the Administrative Procedure Act, which is a reference specifically to Title 2, Division 3, Part 1, Chapter 4.5, *Administrative Adjudication: General Provisions*, and/or Chapter 5, *Administrative Adjudication: Formal Hearings*, of the Government Code, which are more commonly referred to as the Administrative Procedure Act (the Administrative Procedure Act itself encompasses Chapters 3.5, 4, 4.5 and 5 under Title 2, Division 3, Part 1 of the Government Code).

Chapters 4.5 and 5 of the Administrative Procedure Act govern the procedure for administrative appeals, but are specifically written for those administrative appeals which are conducted before the Office of Admin-

istrative Hearings, and thus are not specifically applicable to OTA. (Gov. Code, §15679.5, subd. (a).)

Therefore, the Act directs OTA to adopt “regulations as necessary or appropriate to carry out the purposes” of the Act, and further specifies that OTA is responsible to amend, repeal, or add to the regulations contained in Division 2.1 of Title 18 of the California Code of Regulations, as necessary or appropriate for OTA to govern hearings and proceedings. (Gov. Code, §§ 15679, subd. (a); 15679.5, subd. (b).) Division 2.1 contains the Rules for Tax Appeals of the State Board of Equalization, the predecessor to OTA.

As relevant, Chapter 4 of BOE’s Rules for Tax Appeals (Cal. Code Regs, tit. 18, §§ 5410–5465) governs Appeals from Actions of the Franchise Tax Board. These rules specifically apply to appeals before BOE, thus, for example, Regulation 5410 provides for methods of delivery of written documents and correspondence, and specifies that these be delivered to BOE at a physical address and email address belonging to BOE. Throughout, the regulations reference procedures applicable to units within BOE, such as the Board Proceedings Division, the Chief of Board Proceedings Division, the role of the Chief Counsel, the Appeals Division, the Board Chair, and the board, which are specific to that agency. Nevertheless, effective January 1, 2018, the Act prohibits BOE from hearing or deciding any appeals from actions of FTB and provides that “on or after January 1, 2018, the [BOE] shall not conduct appeals or take any other action with respect to an appeal,” except with respect to those five constitutional duties described above. (Gov. Code, §§ 15674(b).) Considering that BOE no longer has jurisdiction and authority to hear appeals from FTB, this entire chapter needs to be deleted to avoid confusion among the regulated public considering the agency to which to submit a tax appeal.

Chapter 5 of BOE’s rules for tax appeals governs the general procedures for board action, and discusses those procedures, such as the conduct of a board meeting, voting, quorums, presentation of evidence, communication with board members, etc. (Cal. Code Regs., tit. 18, §§ 5510–5576.) Regulation 5510 specifies those tax and fee programs to which the chapter applies, and specifically includes tax and fee programs which were transferred away from the BOE and over which BOE no longer has authority and jurisdiction to hear appeals pursuant to Government Code section 15674.

Chapter 6 of BOE’s Rules for Tax Appeals governs taxpayer bill of rights reimbursement claims for actions before the board. Regulation 5600 specifically provides that the claims procedure applies to those tax and fee programs which were transferred away from the BOE and over which BOE no longer has authority and jurisdiction to hear appeals pursuant to Government Code section 15674.

Furthermore, BOE's Rules for Tax Appeals are specifically written to apply to a five-member voting board which is exempt from complying with Chapters 4.5 and 5 of the Administrative Procedure Act (governing administrative appeals), but which is subject to the Bagley-Keene Open Meeting Act (Gov. Code, §§ 11120-11132), which requires BOE to hold public meetings. Thus, the board's Rules for Tax Appeals do not establish a procedure for a closed hearing. On the other hand, OTA is not subject to the Bagley-Keene Open Meeting Act, but is required to follow Chapters 4.5 and 5 of the Administrative Procedure Act. Furthermore, OTA is statutorily required under the act to promulgate a process to allow for hearings which are closed to the public, which is prohibited under the Bagley-Keene Open Meeting Act. (Gov. Code, § 15676.5).

Additionally, appeals of taxes and fees previously administered by BOE resulted in an internal review to the board. Under the Act, appeals of those same taxes and fees are now administered by CDTFA, which results in an appeal to a third-party agency (OTA). Therefore, there are problems with applying the board's Rules for Tax Appeals to appeals before OTA. Specifically, the procedures followed by BOE, which do not take into account a third-party review structure, are incompatible with requirements of the Act. As one example, under the board's Rules for Tax Appeals, the Franchise Tax Board may file a petition for rehearing with the Chief of Board Proceedings with respect to a tax or fee administered by FTB. (Cal. Code Regs, tit. 18, § 5461.) Under the Act, the board's duties with respect to the administration of taxes and fees previously administered by the board (except for the five areas described above) are now transferred to the jurisdiction of CDTFA, which is a separate entity from OTA. The board's Rules for Tax Appeals do not establish a procedure for CDTFA to file a petition for rehearing with OTA with respect to a tax or fee now administered by CDTFA, even though the board has no jurisdiction over these programs. (See Cal. Code Regs, tit. 18, § 5561.) This is inconsistent with the Act, which requires that OTA conduct appeals including petitions for rehearing from tax and fee programs administered by the CDTFA (non-constitutional functions of the board, including the administration of all tax and fee programs currently administered by CDTFA, were transferred from the board to CDTFA on July 1, 2017). (Rev. and Tax Code, § 15671.)

The Act further provides that Chapter 3.5 of Part 1 of the Government Code, *Administrative Regulations and Rulemakings* (more generally referred to as the Administrative Procedure Act) "shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the office [(OTA)]." (Gov. Code, §15679, subd. (b).)

At the time the Act was passed on July 1, 2017, there were no rules or regulations which were specifically written to apply to an appeal before OTA. Therefore, on or around January 1, 2018, OTA promulgated emergency regulations, the *Office of Tax Appeals Rules for Tax Appeals*. (Cal. Code Regs, tit. 18, §§ 30100- 30832.) OTA's Emergency Rules for Tax Appeals are expected to expire on or around December 31, 2018.

There are issues with the expiring Emergency Rules for Tax Appeals, which were drafted by the Office of Administrative Hearings and CDTFA, on behalf of OTA, because the emergency regulations were hastily drafted to meet a January 1, 2018 deadline and do not meet the needs of OTA to carry out the duties, powers, and responsibilities imposed by the Act. Specifically, there are issues because both the board's Rules for Tax Appeals, and OTA's Emergency Rules for Tax Appeals, bifurcate, separate, and apply different standards and rules of practice depending on the type of tax or fee being appealed (e.g., Franchise and Income Tax, Property Tax, or Business Taxes). The procedures set forth in the Emergency Rules for Tax Appeals, applying different standards to different taxpayers, creates confusion, uncertainty and inequality, and has generated concern among the regulated public. This disparate system was drafted based on the prior legal framework in place prior to the creation of OTA, because under prior law the board heard appeals from the Franchise Tax Board, and also determined appeals of taxes and fees administered by the board (which did not result in an appeal to a third party agency). However, this system is no longer appropriate for the neutral third party appellate system created by the Act. The regulatory action proposes to distinguish and separate the applicable rules of practice for the board and OTA, respectively, by making the board's Rules for Tax appeals only apply to appeals before the board, and making OTA's Rules for Tax Appeals only apply to appeals to OTA. Specifically, the proposed regulatory action applies OTA's proposed Rules for Tax Appeals to Franchise and Income Tax Appeals and Business Tax Appeals, and specifies that the board's Rules for Tax Appeals only apply to those constitutional functions remaining with the board (mainly, appeals of Property Taxes and Alcoholic Beverage Taxes, and excluding any tax or fee program subject to appeal to OTA).

Effect, Objectives, and Benefits of the Proposed Regulatory Action

There are issues because there are currently no regulations that specifically implement, interpret, or make specific the Act's statutes regarding the rules and procedures governing appeals before OTA, aside from OTA's Emergency Rules for Tax Appeals. However, the Emergency Rules for Tax Appeals are expected to expire on

December 31, 2018, and these rules cannot be extended or readopted as an emergency action beyond this time-frame. (Gov. Code §§ 11346.1, subd. (h), 15679, subd. (a)(2).) The regulated public, including state tax agencies who would be appearing before OTA, will need additional guidance governing the rules applicable to appeals before OTA.

The proposed regulatory action is necessary because the existing framework, pulling pertinent provisions from the board's rules for tax appeals, the rules applicable to the Office of Administrative Hearings, and the upcoming expiration of OTA's Emergency Rules for Tax Appeals, do not apply a clear and consistent framework for the public to understand the applicable rules of practice. This is because, one, the existing organizational structures of the applicable regulations and statutes are too inconsistent and vary too widely and, two, due to the creation of OTA, OTA's procedural rules should be placed in a new, more suitable division of title 18 of the California Code of Regulations. In addition, it is necessary to clarify practices and to make those changes and establish those processes, including a process for a closed hearing, and rules for admission of evidence and witnesses, as required under the Act.

Under the Act, OTA is further responsible for adopting regulations regarding the presentation of evidence and preparation for hearings and proceedings before OTA, which do not require application of specialized knowledge. (Gov. Code, §15679.5, subd. (b).) Aside from references to other laws, including the Administrative Procedure Act, and the BOE Rules for Tax Appeals, the Act does not itself create any specific governing procedures for OTA. OTA is left to create its own governing procedures under the Act.

The proposed regulations will allow OTA to set the policies and procedures governing appeals before OTA, including rules for admission of witnesses and evidence, procedures for closing a hearing, rules for preparation for hearings and proceedings before OTA, rules for publication of decisions, briefing schedules, etc., before OTA. These regulations are critical in order to govern the procedure for appeals before OTA. OTA is proposing these permanent regulations through the Office of Administrative Law's permanent rulemaking process, due to the expiration of the emergency regulations.

OTA anticipates that the adoption of the proposed regulatory action will benefit OTA, FTB, CDTFA, local entities, taxpayers, representatives, and the general public by:

- Creating a comprehensive set of procedural regulations which cover all of OTA's administrative review functions with regard to conducting an appeal.
- Establishing procedural regulations that are easier to understand and provide a greater degree of clarity than OTA's current Emergency Rules for Tax Appeals (Cal. Code Regs., tit. 18, §§ 30100–30832), and the board's Rules for Tax Appeals (Division 2.1 of Cal. Code Regs., tit. 18).
- Retaining flexibility to respond to individual circumstances and new or changed responsibilities of OTA.
- Improving upon the current procedural framework, which includes the board's Rules for Tax Appeals (Division 2.1 of Cal. Code Regs., tit. 18), to the extent relevant and applicable and not inconsistent with the Act, the administrative process set forth in the Administrative Procedure Act for appeals to the Office of Administrative Hearing (Gov. Code, §§ 11380 to 11529) to the extent not inconsistent with the Act, the California Code of Judicial Ethics, with respect to ex parte communications and the conduct of an Administrative Law Judge, and OTA's Emergency Rules for Tax Appeals (Cal. Code Regs., tit. 18, §§ 30100–30832).
- Setting forth all of the procedures applicable to OTA's appeals process in one place, applying the same rules and standards to all tax and fee programs to the extent applicable under the law, and providing the same procedures for all taxpayers and parties to the extent allowable under the law.
- Bifurcating and separating the applicable rules of practice by applying OTA's proposed Rules for Tax Appeals to Franchise and Income Tax Appeals and Business Tax Appeals, and specifying that the board's Rules for Tax Appeals to those constitutional functions remaining with the board (mainly, appeals of Property Taxes and Alcoholic Beverage Taxes, and excluding any tax or fee program subject to appeal to OTA).
- Clarifying practices and to make those changes and establishing those processes, including a process for a closed hearing, and rules for admission of evidence and witnesses, as required under the Act.

- Establishing an improved regulatory framework that consistently, clearly, and fully describes OTA's appeals processes in a structurally integrated and logical framework. In this way, the OTA intends to improve its relationship with tax and fee payers.
- Providing taxpayers, public agencies with appeals before OTA, and tax professionals with a single, well-organized, and clear source for all of the procedural information they need to know, from the initiation of the appeals process to the final written opinion from OTA.
- Setting forth all of OTA's procedural regulations in a logically organized structure that provides consistent and clear requirements and guidelines.
- Clearly setting forth and clarifying the jurisdiction of OTA.
- Defining terms applicable in an appeal before OTA.
- Specifying the rules and procedures generally applicable to an appeal before OTA.
- Setting forth the appeal requirements, briefing schedules, and related procedures.
- Setting forth the oral hearing procedures, including the process for a closed hearing.
- Setting forth the procedures for publication of precedential and nonprecedential opinions of OTA, including the depublishing of opinions that have been superseded by a later precedential opinion.
- Setting forth the process for filing a petition for rehearing for appearance and nonappearance matters.
- Setting forth the rules applicable to a taxpayer bill of rights reimbursement claim.

All of the provisions in the proposed regulatory action are fully consistent with current law, including the provisions of the Act establishing OTA, and transferring the duties and responsibilities of the board with respect to appeals to OTA, and adding statutes to and amending statutes in the Government Code, and there is nothing in the proposed regulatory action that would significantly change how individuals and businesses would generally behave in response to current state and federal law, including the provisions of the Act, in the absence of the proposed regulatory action.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

OTA has performed an evaluation of whether the proposed regulatory action is inconsistent or incompatible with existing state regulations and determined that the proposed regulatory action is not inconsistent or incompatible with existing state regulations. This is because

the proposed regulations are the only state regulations that specifically implement, interpret, and make specific the statutes regarding the rules, process, and procedures for appeals to OTA.¹ In addition, OTA has determined that there are no comparable federal regulations or statutes to the proposed regulatory action.

SUMMARY OF PROPOSED REGULATIONS

OTA proposes this regulatory action to implement, interpret, and make specific the Act's statutes requiring OTA to adopt regulations as necessary or appropriate to carry out the purposes of the Act, including the governing rules and procedure for appeals conducted before OTA. Specifically, the proposed regulatory action proposes to adopt OTA's Rules for Tax Appeals, which does the following:

Chapter 1: Title of Division

30000. Statement of Intent: Title of Division

The Taxpayer Transparency and Fairness Act of 2017 took effect on July 1, 2017, authorizing the establishment of OTA and granting it sole jurisdiction over tax appeals arising from actions taken by FTB and CDTPA, beginning January 1, 2018. OTA issued emergency regulations pursuant to Government Code section 15679. OTA is able to carry out its duties, powers, and responsibilities under the emergency regulations until January 1, 2019.

Proposed Regulation 30000 states OTA's intent in promulgating nonemergency regulations to continue to fulfill its statutory duties, and names the proposed regulations the Rules for Tax Appeals to provide a commonly understood reference to the new regulatory provisions.

Chapter 2: Jurisdiction, Definitions, and General Applicability

Article 1: Application of Division 4.1, Definitions, and Jurisdiction

30101. Application of Division 4.1

Proposed Regulation 30101 provides specific guidance to taxpayers as to the tax and fee programs and appeals or petitions for rehearing to which the proposed Rules for Tax Appeals will apply. Listing the tax and fee programs is necessary to eliminate the need for the regulated public to consult all of the various statutes to determine whether appeals for a particular program may be appealed to OTA. Placing this section at the beginning of chapter 2 is appropriate because it contains pro-

¹ OTA intends to let its Emergency Rules for Tax Appeals expire on December 31, 2018, prior to the earliest anticipated effective date of the proposed regulatory action, and OTA's emergency rules cannot be extended or readopted as emergency regulation beyond this timeframe. (Gov. Code, §§ 11346.1, subd. (h), and 15679, subd. (a)(2).)

visions of general applicability to all of the proposed text of the Rules for Tax Appeals. Subdivision (a) provides that OTA has jurisdiction over Franchise and Income Tax Appeals (part 10.2 of division 2 of the Revenue and Taxation Code). Subdivision (b) provides that OTA has jurisdiction over appeals submitted pursuant to part 9.5 of division 3 of title 2 of the Government Code. Subdivision (c) provides that OTA has jurisdiction over appeals from a tax or fee program administered by CDTFA. Subdivisions (c)(1) through (18) list tax and fee programs administered by CDTFA.

30102. Definitions

Proposed Regulation 30102 provides clear, uniform definitions for the meaning of the terms used in the new Rules. This section is necessary to ensure that everyone interested in OTA's appeals procedures understands the meaning of terms used in the proposed Rules for Tax Appeals without the necessity of repeating definitions in multiple sections. Specifically, proposed Regulation 30102 defines the terms: Agency, ALJ, Appeals Bureau, Appeals Bureau decision, Brief, CDTFA, Discovery, Evidence, Ex-parte communication, FTB, Lead ALJ, Local entity, Local or district tax, Mail, Motion, Oral hearing record, OTA, Panel, Relevant evidence, Representative, Submission date, Subpoena, and Written record, within the context of the proposed Rules for Tax Appeals.

30103. Jurisdiction

Proposed Regulation 30103, subdivision (a) provides clear guidance to the regulated public regarding the types of appeals from an action of the FTB that can be brought before OTA. Subdivision (b) provides clear guidance to the regulated public regarding the types of appeals from a decision of the CDTFA that can be brought before OTA. Subdivision (c) provides notice to the regulated public that other laws may expand or limit OTA's jurisdiction before OTA has time to amend this section.

30104. Limitations on Jurisdiction

Proposed Regulation 30104 provides clear guidance to the regulated public regarding the types of issues that OTA does not have jurisdiction to consider. Specifically, subdivisions (a) and (b) provide that OTA does not have jurisdiction to consider whether a statute or a provision of the California Constitution is invalid or unenforceable unless a federal or California appellate court has already made such a determination. In subdivisions (c) through (g), proposed Regulation 30104 provides that OTA does not have jurisdiction to consider (c) whether a state agency violated the Information Practices Act, the Public Records Act, or any other similar provision of the law; (d) whether a taxpayer is entitled to a remedy for an agency's actual or alleged violation of any substantive or procedural right, unless the viola-

tion affects the adequacy of a notice, or the validity of an action, from which a timely appeal was made, or the amount at issue in the appeal; (e) an appeal from a proposed assessment or proposed overassessment; (f) an appeal that is not subject to review by FTB or CDTFA; (g) an appeal that is subject to review by CDTFA where the Appeals Bureau has not yet issued a decision on the appeal.

30105. Questions of Jurisdiction and Timeliness

Proposed Regulation 30105 describes the steps that OTA may take when issues are raised regarding whether or not an appeal was filed timely or whether or not OTA has jurisdiction over the appeal. Subdivision (a) provides that OTA may request additional briefing on an issue in appeal related to jurisdiction or timeliness. Subdivision (b) provides that if OTA does not raise an issue related to jurisdiction or timeliness, either party may raise such an issue during briefing. Subdivision (c) provides that OTA may take certain actions with respect to an appeal when there is an issue regarding timeliness or jurisdiction, including but not limited to: ruling on such issues prior to briefing; requesting additional briefing; or directing the parties to address such issues during the general briefing schedule.

30106. Jurisdiction over Transitioning Appeals

Proposed Regulation 30106 provides clear guidance to the regulated public regarding the transfer of non-final appeals from the BOE to OTA effective January 1, 2018. Specifically, subdivision (a) provides that as of January 1, 2018, OTA has jurisdiction over appeals where BOE failed to issue a decision, or issued a decision that was not final before January 1, 2018. Subdivision (b) provides that OTA has jurisdiction over a petition for rehearing filed with BOE or OTA on a decision that was not final as of January 1, 2018. Subdivision (c) provides that a briefing schedule established by BOE prior to January 1, 2018, will remain applicable to the appeal unless otherwise directed by OTA. Subdivision (d) provides that all other appeals for which the CDTFA Appeals Bureau has issued a decision, and a party has made a timely request for an oral hearing prior to January 1, 2018, are subject to the jurisdiction of OTA.

Chapter 3: Appeal Requirements and Procedures

Article 1: Filing an Appeal

30201. Appeal Filing Requirements

Proposed Regulation 30201 explains the information required in a written appeal from an action of the FTB or the CDTFA Appeals Bureau filed with OTA. Specifically, subdivisions (a) and (b) provide that the information necessary to identify and contact appealing parties and their representatives in the appeal should be included in the written appeal. Subdivisions (c), (d), and (e) require appellants to provide relevant information regarding the grounds for the appeal, the supporting facts

and law, and the amount being appealed. Subdivision (f) requires appellants or their representative(s) to sign the appeal. Subdivisions (g) and (h) require appellants to provide identifying information to ensure that OTA and the tax agencies can adequately identify the records associated with the appellant(s).

30202. Methods for Delivery of Written Documents and Correspondence

Proposed Regulation 30202 directs the public on how documents related to an appeal may be delivered to OTA. Subdivision (a) provides the means for delivery of documents related to an appeal, which include paper and electronic delivery options. Subdivision (b) notifies the public that notifications and acknowledgments from OTA will be sent by mail, unless there is an agreement that notifications and acknowledgments will be sent by another method. Subdivision (c) notifies the public that unless there is an objection, OTA may deliver correspondence using electronic means.

30203. Time for Submitting an Appeal

Proposed Regulation 30203 provides the deadlines for filing tax appeals. Subdivision (a) lists the deadlines for filing when an appellant is appealing adverse actions taken by the Franchise Tax Board. Subdivision (b) lists the deadlines for filing when an appellant is appealing adverse decisions of the California Department of Tax and Fee Administration.

30204. Extensions

Proposed Regulation 30204 notifies the public of extensions of filing deadlines when documents are mailed to OTA. Subdivisions (a), (b), and (c) extend the filing deadlines for mailed appeals depending on the location where the appeal is deposited in the mail. Extensions vary depending on whether an appeal is mailed from California, from another state, or from outside of the United States.

30205. Date of Mailing

Proposed Regulation 30205 notifies the public of the date OTA considers a document to be mailed. Since appeals and related documents have deadlines for submission to OTA, this regulation explains how the date of mailing will be determined by OTA, depending on whether the document is mailed or delivered in another manner. It provides for an extension of a date of mailing if a document is submitted on a Saturday, Sunday or state holiday.

30206. Appeals Filed With Other Agencies

Proposed Regulation 30206 provides that OTA may accept an appeal that has been incorrectly filed with another agency. Although, by law, appeals from adverse actions by the FTB and the CDTFA must be filed directly with OTA, this proposed regulation acknowledges that there may be circumstances where an appellant, in

good faith, incorrectly files his or her appeal with another tax agency or the State Board of Equalization (the former body for deciding tax appeals). OTA will deem the petition or appeal timely under those circumstances.

30207. Acknowledging an Appeal

Proposed Regulation 30207 delineates OTA's procedures for acknowledging that an appeal has been filed. Subdivision (a) instructs the public that OTA will mail an acknowledgment of receipt of an accepted appeal to each party. Subdivision (b) provides that acknowledgment of a Petition for Redistribution will be mailed to parties and also to the taxpayer whose allocations are the subject of the petition.

30208. Perfecting an Appeal

Proposed Regulation 30208 explains that OTA will accept an appeal if it meets threshold requirements, and describes the steps OTA will take if the information OTA received is insufficient for a valid appeal. Specifically, subdivision (a) states that if OTA can identify the appeal and if substantially all of the information required in regulation 30201 is present, along with contact information for the party or the party's representative and required parties' signatures, OTA will accept that appeal as valid. Subdivision (b) explains the process through which OTA will give a party the opportunity to bring an appeal into compliance with threshold requirements, the timeline for which a party must do so, and how OTA will respond to timely and untimely attempts to meet those requirements.

30209. Submission for Decision Without Oral Hearing

Proposed regulation 30209 explains the circumstances under which an appellant will be considered to have waived the right to an oral hearing. Subdivision (a) further explains that such cases will be submitted for decision based on the written record. Subdivision (b) explains that in an innocent spouse appeal, if neither the appealing spouse nor the non-appealing spouse request an oral hearing, or neither responds to a notice of oral hearing, the appeal will be submitted for decision based on the written record.

Article 2: Appeal Procedures

30210. Conferences

Proposed regulation 30210 provides guidance on appeal conferences. Subdivision (a) states that the provisions of Article 2 apply to all proceedings before OTA, including nonappearance matters and oral hearing matters. Subdivision (b) provides who may request a conference and when, and explains that OTA will determine when a conference is necessary. Further, conferences can be conducted by the Lead ALJ or an OTA attorney, and will generally be informal and not recorded. Subdivision (c) explains who may request a conference and how. Subdivision (d) sets out where conferences will be physically held, and that conferences can be held

by electronic means if all parties are able to participate and can understand the proceeding. Subdivision (e) sets out that OTA will set prehearing conferences and provide parties with notice of the time and location of the conferences. OTA will consult with the parties in scheduling other conferences and provide written notice of the time and location of conferences. Subdivision (f) gives examples of matters that may be discussed at a conference. Subdivision (g) explains that, unless otherwise directed by OTA, any new evidence that a party wishes to discuss at a conference should be provided to OTA and the other party no later than three business days prior to the conference.

30211. Representation

Proposed section 30211 provides guidance on representation of a taxpayer before the OTA. Subdivision (a) states that a taxpayer may be represented in an appeal by anyone at least 18 years of age of their choosing. Subdivision (b) sets out that OTA will recognize all authorized representatives and the role of such representatives. Subdivision (c) sets out how to substitute or withdraw representation. Subdivision (d) explains that someone disbarred or suspended from practice before the FTB shall promptly notify OTA of such and may not represent a party in an appeal before OTA.

30211.5. Privileges

Proposed regulation 30211.5 sets out that the rules pertaining to privileges shall apply to the extent required by law, and that, in addition, communications between a taxpayer and a federally authorized tax practitioner shall be protected as confidential as provided in Revenue and Taxation Code sections 7099.1 and 21028.

30212. Consolidation and Deconsolidation

Proposed regulation 30212 explains how appeals may be consolidated or deconsolidated. Subdivision (a) provides that OTA may consolidate appeals on a motion of a party or upon OTA's own initiative, if the facts and issues are similar and no substantial right of any party will be prejudiced. OTA will promptly notify the parties if an appeal is consolidated. Subdivision (b) sets out the standard under which OTA may decide to deconsolidate appeals. Subdivision (c) sets out how any party may submit an objection to a consolidation or deconsolidation, when to object, and the basis upon which an objection should be made.

30213. Authority of Administrative Law Judges

Proposed Regulation 30213 lists the actions that may be taken by a Panel in order to hold a fair hearing. The proposed regulation provides that the Lead ALJ or any member of the panel has full power, jurisdiction, and authority to (a) perform acts necessary for the purpose of ascertaining the facts on which a decision may be

based; (b) determine the order that witnesses will testify at the hearing; (c) request that each party identify the issues to be heard, agreed-upon facts, and the evidence upon which the party wishes to rely; (d) ask relevant questions of any witness or party to clarify the record; (e) issue interlocutory and final orders, instructions, and decisions; (f) issue post-hearing orders and sections; (g) issue rulings on motions; (h) order the closure or reopening of the record; (i) issue and vacate submission orders; and (j) take any other action necessary for the orderly and fair adjudication of disputes.

30213.5. Orders

Proposed regulation 30213.5 provides authority for OTA to issue orders to, and sanctions against, the parties to facilitate the fair and orderly resolution of appeals. Proposed regulation 30213.5 explains that orders may be enforced under the provisions of Government Code sections 11455.10 through 11455.30.

30214. Evidence

Proposed Regulation 30214 provides the rules relating to evidence and witnesses that apply to proceedings, including oral hearings, before OTA. Specifically, subdivision (a) explains that parties appearing before OTA should cooperatively engage in informal discovery prior to requesting OTA involvement in the discovery process. Subdivision (b) provides time limitations for a party to obtain the names of witnesses and to inspect and make copies of statements pertaining to the subject matter of the proceeding, statements of witnesses having personal knowledge of relevant acts, omissions, or events, any other relevant writing or thing, and investigative reports. Subdivision (c) defines "statements" to include written statements signed or authenticated by the person, recordings or transcripts of oral statements, and written reports or summaries of oral statements. Subdivision (d) provides that the inspection or copying of any privileged or confidential writing or thing is not authorized. Subdivision (e) provides that OTA may allow a subpoena upon a showing of good cause if the person requesting the subpoena bears the burden of proof or if the subpoena is to be issued to a nonparty to the appeal. Subdivision (f) provides that all relevant evidence is admissible unless it is subject to a privilege, and further provides that the Lead ALJ may exclude evidence if its admission will necessitate undue consumption of time. Additionally, subdivision (f) provides that the Panel may use the California rules of evidence when evaluating the weight to give evidence. Subdivision (g) provides that a request for discovery beyond what is outlined in this section will only be granted upon a showing of good cause.

30214.5. Noncompliance with Discovery Requests

Proposed Regulation 30214.5 provides that OTA will strive to provide an informal and efficient administra-

tive process for the parties to cooperatively exchange requested information that is relevant to an appeal. Specifically, subdivision (a) provides that if a party claims that the opposing party has not complied with a request for discovery, OTA may request a response from the opposing party, with a deadline for the response of at least 30 days. Subdivision (b) provides that OTA may issue an order to compel discovery. Subdivision (c) provides that OTA may deny a party's motion to compel discovery if it determines that the discovery request is overly burdensome, invasive, or otherwise not in the interest of adjudication of the hearing before it.

30215. Ex Parte Communications

Proposed Regulation 30215 provides that OTA will follow the rules restricting ex parte communications contained in the Code of Judicial Ethics adopted by the Supreme Court and the rules found in Government Code sections 11430.10 through 11430.80.

30216. Incorporation of the Administrative Procedure Act

Proposed Regulation 30216 explains how provisions of the Administrative Procedure Act have been incorporated into the rules governing OTA's conduct of hearings and proceedings. Specifically, subdivision (a) provides that hearing procedures will be accessible to all representatives. Subdivision (b) provides that when an oral hearing is not requested or is waived, appeal proceedings will be conducted under Chapter 4.5 of the Administrative Procedure Act, except that OTA retains the discretion to utilize aspects of Chapter 5 and prohibit usage of portions of Chapter 4.5 of the Administrative Procedure Act. Subdivision (c) provides that when an oral hearing is requested, OTA will conduct the hearing process pursuant to Chapter 5 of the Administrative Procedure Act, except that OTA retains the discretion to utilize aspects of Chapter 4.5 and prohibit usage of portions of Chapter 5. Subdivision (d) lists provisions included in Chapters 4.5 and 5 of the Administrative Procedure Act that will not apply to proceedings before OTA. Subdivision (e) provides that OTA is exempted from provisions of the Administrative Procedure Act if required by the context or subject matter of the proceeding. Subdivision (f) defines "Presiding Officer," as used in the Administrative Procedure Act, to mean "Lead ALJ" or "Panel," or the Presiding ALJ if no Lead ALJ or Panel has been assigned to an appeal. Subdivision (g) provides that OTA always has discretion to use the informal hearing procedures found in Chapter 4.5 of the Administrative Procedure Act. Subdivision (h) provides that if any provision of the Administrative Procedure Act conflicts with these regulations, these regulations are controlling.

30217. Determination that Appeal Is Frivolous

Proposed Regulation 30217 explains that OTA may impose a frivolous appeal penalty and provides a list of the factors that OTA will consider in determining whether or not the penalty is warranted. Subdivision (a) explains that the frivolous appeal penalty may be imposed if a Panel determines that a franchise or income tax appeal is frivolous or is maintained for the purpose of delay. Subdivision (b) provides that the factors that may be relevant in determining whether a frivolous appeal penalty is warranted include (1) whether the appellant is making arguments that previously have been formally rejected; (2) whether the appellant is making the same arguments that it made in prior appeals; (3) whether the appellant submitted the appeal for the purpose of delay; (4) whether the appellant has a history of submitting frivolous appeals or failing to comply with California's tax laws; or (5) whether the appellant has been notified that a frivolous appeal penalty may apply.

30218. Application of Ethics Codes

Proposed Regulation 30218 provides that each ALJ will abide by the Code of Judicial Ethics adopted by the California Supreme Court.

30219. Application of Burden of Proof

Proposed Regulation 30219 explains how the burden of proof is applied. Specifically, subdivision (a) provides that the burden of proof is upon the appellant as to all issues of fact, except as otherwise provided by law. Subdivision (b) provides that the burden of proof as to an issue of fraud is upon the Agency by clear and convincing evidence. Subdivision (c) provides that proof by a preponderance of the evidence is required, except as otherwise provided by law.

Article 3: Postponements, Deferrals, and Dismissals

Section 30220. Postponement and Deferral

Proposed regulation 30220 provides rules for OTA to allow the parties to defer proceedings in an appeal. The proposed regulation directs the parties on specific situations in which a party can postpone or defer their appeal. Subdivision (a) provides that OTA may postpone or defer proceedings for good cause. Subdivision (b) provides examples of good cause, including but not limited to (1) illness of that person or a member of that person's immediate family; (2) an unavoidable scheduling conflict; (3) a new representative who requires additional time to become familiar with the case; (4) all parties desire a postponement; (5) an appellant's involvement in a bankruptcy action that may impact the appeal proceedings or be relevant to the resolution of the issues on appeal; or (6) pending court litigation, or proceedings at the agency, that may impact the appeal proceedings or be relevant to the resolution of the issues on appeal, or

the resolution of other pending appeals raising similar issues.

Section 30221. Settlement or Resolution

Proposed regulation 30221 provides that OTA may defer an appeal if the parties are seeking settlement. The proposed regulation further provides that upon notification from a party that settlement negotiations have terminated without a settlement, OTA will reactivate the appeal and will advise the parties as to the next step in the appeal.

Section 30222. Written Notice

Proposed regulation 30222 provides that OTA will provide written notification to the parties if an appeal is postponed or deferred.

Section 30223. Dismissal

Proposed regulation 30223 provides rules for when an appeal will be dismissed at OTA. Specifically, the proposed regulation provides that the case will be dismissed if (a) the appellant or the representative of appellant submits a written, signed request for dismissal; (b) an Agency submits a written concession of the entire amount of the deficiency, refund or claim at issue; or (c) the parties submit a written stipulation, signed by all the parties, in which all parties agree to the dismissal.

Section 30224. Request for Reconsideration of CDTFA Appeals Bureau Decision

Proposed regulation 30224 provides rules for when a party submits a request for reconsideration of CDTFA's Appeals Bureau Decision. Subdivision (a) states that OTA will defer the appeal until CDTFA's Appeals Bureau either issues a revised or supplemental decision or notifies the party in writing that the request has not been accepted. Subdivision (b) states that the time for submitting an appeal will restart after the parties have been notified.

Chapter 4: Briefing Schedules and Procedures

Article 1: General Briefing Schedule

Section 30301. Application of Chapter

Proposed regulation 30301 provides that the general briefing schedule applies to all appeals from actions of FTB or CDTFA, unless the schedule is modified. Subdivision (a) provides that the general briefing schedule may not apply if the appeal involves an innocent spouse determination, or in the case of a petition for redistribution of local or district tax. Subdivision (b) provides that if an appeal involves a jeopardy determination, OTA will compose a suitable briefing schedule.

Section 30302. General Requirements

Proposed regulation 30302 provides the general requirements of the briefing schedules for appeals before OTA. Subdivision (a) provides that OTA will inform the parties of applicable deadlines and extensions by

written notification, and will ensure that all parties receive copies of any correspondence. Subdivision (b) provides that OTA will provide written acknowledgment of receipt of any brief to all parties, and will ensure that the opposing party is provided with a copy of the brief and exhibits. Subdivision (c) provides information regarding requests for an extension of time for filing a brief. Subdivision (d) provides formatting requirements for briefs. Subdivision (e) provides that OTA may return a brief that does not conform to the form and page limits specified in subdivision (d), except that a party may request to file a nonconforming brief. Subdivision (f) provides that failure to submit a brief that conforms to the requirements stated in this proposed regulation constitutes a waiver of the right to submit that brief. Subdivision (g) provides that OTA may accept non-party (amicus) briefs at its discretion.

30303. General Briefing Schedule

Proposed Regulation 30303 provides the general briefing schedule for appeals. Subdivision (a) provides that the appellant's appeal letter will constitute the appellant's opening brief unless the appellant requests the opportunity to supplement it. If the appellant requests to supplement the opening brief, OTA will allow 60 days for the appellant to file a supplement to the opening brief. Subdivision (b) allows respondent 60 days to file its opening brief. Subdivision (c) allows 30 days for appellant to file a reply brief to respondent's opening brief and provides that the appellant's reply brief may only address new facts, issues, or arguments raised on respondent's opening brief. Subdivision (d) provides that the submission of the appellant's reply brief will generally end the briefing process, unless additional briefing is permitted.

30304. Requests for Additional Briefing

Proposed Regulation 30304 provides that OTA or parties to an appeal may request additional briefing. Subdivision (a) provides that OTA will address any request for additional briefing and coordinate the briefing process. Subdivision (b) provides that a party may request additional briefing and provides examples of potential grounds for a request for additional briefing. Subdivision (c) provides that additional briefs generally may use ordinary and informal language and may be hand-written or typed.

Article 2: General Briefing Schedule for Innocent Spouse Appeals

30310. Application

Proposed Regulation 30310 explains that Article 2 provides the briefing schedule for appeals arising from requests for innocent spouse relief. Article 2 is necessary because innocent spouse appeals raise special privacy concerns and may involve, in addition to the ap-

pealing party and the agency, the appealing party's spouse or former spouse.

30311. Definitions

Proposed Regulation 30311 provides definitions for the terms (a) "appealing spouse," (b) "requesting spouse," (c) "non-requesting spouse," and "non-appealing spouse" used in Article 2.

30312. Special Rules and Procedures

Proposed Regulation 30312 provides procedures that are specific to innocent spouse appeals. Subdivision (a) provides that, if both spouses submit timely appeals, then the appeals will be consolidated. Subdivision (b) provides that, if only one spouse submits a timely appeal, then the non-appealing spouse will receive a copy of the appeal and be notified of his or her right to join the appeal. Subdivision (c) provides that OTA shall use the best available information to contact the non-appealing spouse. Subdivision (d) provides that OTA will retain jurisdiction over an innocent spouse appeal through the conclusion of the appeal, notwithstanding any withdrawal by an agency of a notice or decision. Subdivision (e) provides that either party in an innocent spouse case may request a separate hearing. Subdivision (f) explains provisions for a party in an innocent spouse case to request that an oral hearing be closed to the public, and provisions for a party in an innocent spouse case to request that items in the record be sealed.

30313. Protection of Confidential Information

Proposed Regulation 30313 provides that OTA will take reasonable steps to ensure that the personal identifying information of one spouse is not provided to the other spouse.

30314. Opening Briefs

Proposed Regulation 30314 provides a schedule for the filing of opening briefs in innocent spouse appeals. Subdivision (a) provides that the appealing spouse's perfected appeal letter constitutes the appealing spouse's opening brief, unless the appealing spouse requests to submit a separate opening brief. It further provides that, if the appealing spouse requests to submit a separate opening brief, the opening brief generally must be filed within 60 days. Subdivision (b) provides that the agency may submit its opening brief not later than 60 days from the date OTA acknowledges the appealing spouse's opening brief. Subdivision (c) provides that the non-appealing spouse may submit an opening brief not later than 60 days from the date of the notification of the non-appealing spouse's right to participate in the appeal.

30315. Reply Briefs

Proposed regulation 30315 provides clear guidance regarding the submission of reply briefs and the conclusion of the briefing process in innocent spouse appeals.

Subdivision (a) provides the deadline for the appealing spouse to file a reply brief. Subdivision (b) explains that the reply brief may only address points of disagreement with the Agency's opening brief and the non-appealing spouse's opening brief. Subdivision (c) describes the requirements for a reply brief filed by the non-appealing spouse or the Agency. Subdivision (d) provides that the briefing schedule is concluded if no reply brief is submitted. Subdivision (e) provides that additional briefing may be requested.

30316. Conformity with Federal Action

Proposed regulation 30316 provides clear guidance on the procedures that are to be followed in an innocent spouse appeal filed with respect to franchise and income taxes when relief has been granted under Internal Revenue Code section 6015. Subdivision (a) provides that the party who receives notification that relief has been granted under Internal Revenue Code section 6015 must submit proof of such notification to OTA as soon as is practical. Subdivision (b) provides that OTA will notify FTB and the non-requesting spouse of the federal grant of innocent spouse relief, and also provides that FTB and the non-requesting spouse may provide information that indicates that relief should not be granted. Subdivision (c) provides circumstances in which additional briefs may be provided. Subdivision (d) provides that if a party receives notification that relief has been granted under Internal Revenue Code section 6015 before the briefing schedule has concluded, the briefing schedule will not be concluded until the requirements of this regulation are satisfied. Subdivision (d) further provides that if a party receives notification that relief has been granted under Internal Revenue Code section 6015 after the briefing schedule has concluded, then briefing will be reopened. Subdivision (e) provides that this regulation shall only apply to appeals from notices that grant or deny, in whole or in part, innocent spouse relief pursuant to Revenue and Taxation Code sections 18533 or 19006.

Chapter 5: General Oral Hearing Procedures

Article 1: Scheduling an Oral Hearing

30401. Process for Requesting an Oral Hearing

Proposed regulation 30401 provides clear guidance to taxpayers on how to request an oral hearing. Subdivision (a) provides that an appellant may request an oral hearing in writing at any time prior to the completion of briefing, and then lists the steps that OTA will take to confirm the request for an oral hearing, or to determine if the appellant has waived the right to an oral hearing. Subdivision (b) provides that, for innocent spouse appeals, both the appealing spouse and the non-appealing spouse may request an oral hearing, and provides the circumstances under which a Panel will conduct separate oral hearings. Subdivision (c) provides that if a

Panel conducts separate oral hearings, the Panel will not decide the appeal until both hearings have concluded.

30402. Notice of Oral Hearing

Proposed regulation 30402 explains OTA's responsibility to notify the parties that an oral hearing has been scheduled. Subdivision (a) provides that if an oral hearing is granted, OTA will send the parties a notice of oral hearing. Subdivision (b) provides that a notice of oral hearing will be sent to the parties at least 45 days prior to the oral hearing date, unless all parties agree to a shorter notice period. Subdivision (c) provides that the notice of oral hearing will contain the name of the taxpayer; OTA's case identification number for the appeal; the date, time, and location of the oral hearing; the due date of the response to the notice of oral hearing; and the date the notice of oral hearing was mailed.

30403. Response to Notice of Oral Hearing

Proposed regulation 30403 provides clear guidance on responding to a notice of oral hearing. This proposed regulation also informs parties to an appeal of their right to an interpreter and reasonable accommodation. Subdivision (a) provides that the response to oral hearing should include a statement indicating that the party or party's authorized representatives will appear at the hearing, or that the party requests a postponement, the party waives the opportunity to appear, or the party withdraws its appeal. Subdivision (b) provides that persons participating in oral hearings who require an interpreter are entitled to an interpreter at no charge, and that the response to the notice of oral hearing should set forth the party's request for an interpreter and state the primary language spoken by the person for whom an interpreter is requested. Subdivision (c) provides that if a person requires special accommodation for other reasons, the response should describe the person's disability and the accommodation sought. Subdivision (d) provides that the response to the notice should provide the name and address of all witnesses who will testify for the party. Subdivision (e) provides that if a witness will be testifying in an expert capacity, the response to the notice should include a summary of that person's credentials and a brief summary of the nature and purpose of the expert's testimony. Subdivision (f) provides that the response to the notice should also include any other information requested by OTA in order to facilitate a fair and orderly oral hearing.

30404. Waiver of Oral Hearing

Regulation 30404 explains provisions for removing a matter from the oral hearing calendar. Specifically, subdivision (a) provides that a matter will be removed from the oral hearing calendar if the party or parties who requested an oral hearing fail to return the response to the notice of oral hearing by the deadline, or fail to appear at the oral hearing. Subdivision (b) provides that OTA, in

its discretion, may return the matter to the oral hearing calendar upon a showing of reasonable cause for failing to appear or return the hearing notice.

30405. Posting of the Oral Hearing Schedule on OTA's Website

Proposed Regulation 30305 provides that OTA will post hearing dates on its website at least 15 calendar days before the hearing date.

Article 2: Conducting an Oral Hearing

30410. Oral Hearing Rights

Proposed regulation 30410 explains that at an oral hearing, each party will have the right to call and question witnesses; to introduce exhibits; and to respond to the evidence against him or her. Proposed regulation 30410 also states that where a party offers oral testimony as evidence at an oral hearing, the oral evidence may be taken only on oath or affirmation.

30411. Disqualification of Administrative Law Judge for Cause

Proposed regulation 30411 provides that any party may file a motion to disqualify for cause any of the administrative law judges assigned to a Panel, and that there is no right to peremptory challenges.

30412. Concluding an Oral Hearing

Proposed regulation 30412 provides that upon concluding an oral hearing proceeding, the Panel will determine the submission date when the official oral hearing record will be closed. Proposed regulation 30413 also provides that, for good cause, the Panel may defer its determination of the submission date or it may reopen the oral hearing record.

Article 3: Motions and Presentation of Evidence at an Oral Hearing

30420. Presenting Information and Documents at Oral Hearing

Proposed regulation 30420 provides guidance on how exhibits, witness lists, and witness declarations are to be presented to OTA. Subdivision (a) states that the party providing exhibits should provide a list of the exhibits with a brief description of each document; explains how exhibits should be labeled; and explains that the Agency should include in its exhibits any jurisdictional documents including the written decision or notice of action taken by the Agency that is the subject of the appeal. Subdivision (b) provides that each party must submit a list of all witnesses who will testify on its behalf, with a copy to the other party, at least 15 calendar days before the hearing or earlier if directed to do so by OTA, and also provides that any witness who will testify as an expert must be clearly identified with a brief description of the purpose of each expert witness's testimony. Subdivision (c) provides that parties may submit declarations of persons who will not be present

at the hearing, and that such declarations should be signed under penalty of perjury and filed with the filing party's brief. This subdivision also explains provisions for the opposing party to question the witness providing the declaration, or request documentation related to the declaration, and for the witness to respond to questions.

30421. Motions

Proposed regulation 30421 explains how prehearing motions are to be filed. Subdivision (a) provides that all motions made prior to the oral hearing shall be directed to the Lead ALJ or to a Presiding ALJ. Subdivision (b) provides that prehearing motions shall be made with written notice to all parties. Subdivision (c) provides that the Lead ALJ assigned to a Panel or a Presiding ALJ may decide prehearing motions, order additional briefing on the issue, or defer decision until the date of the hearing. Subdivision (d) provides that, generally, a prehearing motion shall be filed at least 15 days before the start of the oral hearing, and any response to the prehearing motion shall be filed by the due date specified by OTA.

Article 4: Observation of Oral Hearings

30430. Public Transparency

Proposed regulation 30430 explains that oral hearings are generally open to the public, and that submitting an appeal constitutes a waiver of the right to confidentiality with regard to all of the briefing and other information provided to OTA by either the party or an Agency, with certain specified exceptions. Subdivision (a) provides that oral hearings before a Panel are open to the public, unless ordered otherwise in accordance with this regulation, and that the submission of an appeal constitutes a waiver of the right to confidentiality. This subdivision also provides that OTA may disclose information pursuant to Revenue and Taxation Code section 19545, the California Public Records Act, and other applicable law. Subdivision (b) provides that the waiver of confidentiality does not apply to any person's address, telephone number, social security number, federal identification number, or other account number, and such information will not be provided to the public in response to a request made pursuant to the California Public Records Act. Subdivision (c) provides that nothing in this regulation prohibits any party to an OTA hearing, ALJs, or OTA staff from referring to information described in this regulation in briefs, or in a manner that will not disclose any person's actual address, telephone number, social security number, federal identification number, or bank account number at a hearing. Subdivision (d) provides that there is no right to confidentiality as to relevant information that OTA includes in a written opinion that is required to be published pursuant to Government Code section 15675.

30431. Requests to Close an Oral Hearing from Public Observation or Seal the Record

Proposed regulation 30431 explains provisions for having an oral hearing closed and having the oral hearing record sealed. Proposed regulation 30431 provides that a request to close an oral hearing or seal the oral hearing record should be made in writing, should be made prior to the due date of the appellant's response to the notice of oral hearing, and should state the grounds upon which it is based, with copies provided to all other parties, including the Agency.

30432. Closing Hearings, Sealing the Record, and Redacting Information

Proposed regulation 30432 provides criteria for determining when a hearing will be closed to the public, when items contained in the oral hearing record or the written record will be sealed, and when information contained in the decision or other documents will be redacted. Specifically, subdivision (a) provides that OTA will consider: (1) whether the appeal involves trade secrets or other confidential research, development, or other information; (2) where a request for a closed hearing is made, to ensure the ability of the party to be represented by the person of their choice, in the circumstances of that particular case; and (3) other grounds as necessary to ensure a fair hearing and provision of due process. Subdivision (b) provides that any request to seal records will be applied to as narrow a set of records as required under the circumstances. Subdivision (c) provides that an appellant may request to redact information in decisions no later than 15 days after the mailing of the decision. Subdivision (d) provides that this section will be applied and interpreted in a manner that recognizes the public interest in transparency.

30433. Ruling Upon a Request to Close an Oral Hearing, Seal Records, or Redact Information

Proposed Regulation 30433 provides notification that OTA will issue a written order granting or denying any request provided in regulation 30432.

Chapter 6: Decision by Written Opinion

30501. Publication of a Written Decision

Proposed Regulation 30501 prescribes the information to be included in written opinions issued by OTA, as well as the timeframe for publication of the opinions and the system for numbering decisions. Specifically, subdivision (a) provides that a written opinion will explain the reasons for granting or denying the appeal, in whole or in part. Subdivision (b) provides that a written opinion will include findings of fact, legal issues, applicable law, the holding of the Panel, and the names of the adopting or dissenting administrative law judges. Subdivision (c) explains that at least two out of three Panel members must concur in each holding, and that a con-

curing or dissenting member may provide a separate written opinion. Subdivision (d) provides that OTA will publish a written decision on its website within 100 days after the date upon which the decision becomes final. Subdivision (e) prescribes the format for the decision numbers assigned to posted OTA decisions. Subdivision (f) provides that an appellant may request that the record be sealed or that information be redacted in a decision.

30502. Citation of OTA Opinions and Precedential Effect

Proposed Regulation 30502 provides specific guidance to the public regarding the procedures and timeline for requesting that an opinion be given precedential effect in accordance with Government Code section 11425.60, the factors that designated staff at OTA will consider in determining whether to designate an opinion as precedential, and the posting of precedential opinions. Specifically, subdivision (a) provides that a proposal to give an opinion precedential effect may be communicated by any person to an email address listed on OTA's website. Subdivision (b) explains that a written opinion published by OTA is not precedential in any other appeal before OTA unless OTA has designated that its opinion is precedential. Subdivision (c) lists the factors that OTA will consider in determining whether to designate an opinion as precedential, including whether the opinion (1) would establish a new interpretation of law or modify or repeal an existing interpretation of law; (2) would resolve an apparent conflict in the law; (3) would involve a legal issue of continuing public interest; (4) would make a significant contribution to the law; or (5) whether there is any other basis to justify precedential status. Subdivision (d) provides that the Chief Counsel of OTA, in consultation with the Presiding ALJs, will determine if a written opinion should be precedential, and the Director of OTA will have the authority to accept or reject the determination that a decision should be precedential. Subdivision (e) explains that there will be a delay of 30 days from the time precedential decisions first are posted on OTA's website until they become precedential.

30503. Withdrawal of Precedential OTA Opinions

Proposed Regulation 30503 notifies the public that OTA may withdraw, in whole or in part, the precedential status of an opinion that it previously designated as precedential, with an explanation, and when OTA does so, the decision will be published as an overturned decision on OTA's website.

30504. Precedential Decisions of the Board of Equalization

Proposed Regulation 30504 notifies the public that, as part of a written opinion, OTA may withdraw, in whole or in part, the precedential status of an opinion of

the State Board of Equalization (BOE) that was adopted prior to January 1, 2018, and that if OTA does so, it will publish a notation of the change in precedential status on its website. Additionally, it specifies that BOE decisions that remain precedential may be cited to OTA.

30505. Finality of Written Opinions

Proposed Regulation 30505 provides the information necessary to ensure that the parties to an appeal have a clear understanding of the date a decision becomes final. Specifically, subdivision (a) explains that a decision becomes final 30 days from the date the written opinion is mailed to the parties unless a party to the appeal files a petition for rehearing during that 30-day period. Subdivision (b) explains that OTA may correct typographical or non-substantial errors in a published decision without affecting the date the decision becomes final. Subdivision (c) provides that, while a Panel may sever any issue from an appeal for separate consideration, and issue an opinion on the severed issue prior to deciding the appeal, the Panel's decision on the severed issue only becomes final when the decision resolving the entire appeal becomes final.

Chapter 7: Petitions for Rehearing

30601. Definitions

Proposed Regulation 30601 defines "filing party" and "non-filing party" for purposes of discussing submissions of petitions for rehearing.

30602. Time for Filing a Petition for Rehearing

Proposed Regulation 30602 provides information regarding timelines and procedures for filing petitions for rehearing. Specifically, the proposed regulation explains that a petition for rehearing must be filed during the 30-day period described in proposed Regulation 30505(a) to be timely. Additionally, proposed Regulation 30602 provides that if a petition for rehearing does not contain sufficient information, OTA's notification of receipt will explain the deficiency, and the petitioning party will be allowed 30 days to cure the deficiency. If the petitioning party does not cure the deficiency within 30 days, OTA will reject the petition and notify the parties of the rejection in writing, unless OTA finds good cause to accept the petition for rehearing.

30603. Form and Content of the Petition for Rehearing

Proposed Regulation 30603 specifies that every petition for rehearing must be in writing, must meet certain formatting requirements, and must contain (a) the name or names of the submitting parties; (b) the address and telephone number of the submitting party and its representative, if applicable; (c) any portion of the amount at issue that has been conceded; (d) the signature of each submitting party or the signature of an authorized representative on behalf of each submitting party; and (e) the facts and arguments showing grounds for a rehearing.

30604. Grounds for Rehearing

Proposed Regulation 30604 describes the grounds on which a rehearing may be granted. Specifically, subdivision (a) provides that a rehearing may be granted if an irregularity in the appeal proceedings prevented fair consideration of the appeal. Subdivision (b) provides that a rehearing may be granted if an accident or surprise occurred during appeal proceedings. Subdivision (c) provides that a rehearing may be granted if newly discovered, relevant evidence has become available. Subdivision (d) provides that rehearing may be granted if there is insufficient evidence to justify the written opinion or if the opinion is contrary to law. Subdivision (e) provides that a rehearing may be granted due to an error in law. At the trial court level, the equivalent of a petition for rehearing is a motion for a new trial. California Code of Civil Procedure section 657 specifically sets forth the grounds for granting a new trial. As explained in the board's precedential decision in the *Appeal of Wilson Development, Inc.* (94–SBE–007, Oct. 5, 1994), the board has historically looked to the Code of Civil Procedure in determining whether grounds for a rehearing exist. It is the intent in drafting regulation 30604, that in determining whether to grant a rehearing of an administrative appeal before OTA, that OTA continue to apply the grounds for a new trial as set forth in Code of Civil Procedure section 657, to the extent those grounds are relevant to an administrative hearing. Subdivisions (a) through (e) of proposed regulation 30604 are specifically intended to apply paragraphs 1, 3, 4, 6, and 7, respectively, in Code of Civil Procedure section 657. Code of Civil Procedure, Paragraph 6 (subdivision (d) of proposed regulation 30604) applies in the context that the decision is against the law, and Paragraph 7 (subdivision (e) of proposed regulation 30604) applies in the context that there is an error in law that occurred during the appeal proceedings that was excepted to by the party filing the application or petition. It is the intent of OTA in setting forth the grounds for rehearing in proposed regulation 30604, to summarize the underlying law as set forth in the Code of Civil Procedure, and to continue the board's precedential decision in the *Appeal of Wilson Development, Inc.* (94–SBE–007, Oct. 5, 1994) in looking to the Code of Civil Procedure in determining whether to grant a new hearing. Proposed regulation 30604 is intended merely to summarize and apply the underlying substantive law as set forth in Code of Civil Procedure, section 657, as that law is relevant to an administrative hearing. Proposed Regulation 30604 is not intended to create any new appeal rights or expand or restrict those appeal rights beyond what is contained in Code of Civil Procedure, section 657.

30605. Number of Petitions for Rehearing

Proposed Regulation 30605 makes it clear that only one petition for rehearing regarding the same appeal may be submitted, and that once a Panel has issued a decision on a petition for rehearing or issued a written opinion after a rehearing, neither party may submit another petition for rehearing.

30606. Decisions on Petitions for Rehearing

Proposed Regulation 30606 describes the potential outcomes from a petition for rehearing, whether a rehearing is granted or denied. Specifically, the proposed regulation provides that if a rehearing is granted, the initial decision will be held in abeyance pending resolution of the rehearing, and if a rehearing is denied, the initial decision becomes final 30 days from the date of the denial. Additionally, OTA may modify a prior decision without a rehearing if all parties consent.

30607. Briefing on Rehearing

Proposed Regulation 30607 prescribes the briefing schedules when a single petition for rehearing has been granted and when petitions for rehearing filed by more than one party have been granted. Specifically, subdivision (a) provides that the general requirements for briefs explained in Proposed Regulation 30302 apply to the administration of the briefing process and the documents submitted as briefs for a rehearing. Subdivision (b) provides the schedule for the filing party's opening brief, the non-filing party's reply brief, and the filing party's reply brief when a single petition for rehearing has been granted. Subdivision (c) provides the schedule for opening briefs and reply briefs when there is more than one filing party and more than one petition for rehearing has been granted. Subdivision (d) provides that OTA may permit or require additional briefs. Subdivision (e) provides that OTA may order any briefing schedule that it deems appropriate. Subdivision (f) provides that the parties may request an extension of time for filing a brief under guidelines stated in Proposed Regulation 30302(c).

Chapter 8: Taxpayer Bill of Rights Reimbursement Claims

30701. Jurisdiction

Proposed Regulation 30701 provides specific guidance to taxpayers as to the tax and fee programs for which OTA may consider claims for reimbursement. Subdivision (a) provides that OTA has jurisdiction over reimbursement claims related to Personal Income and Bank and Corporation Income Tax. Subdivision (b) provides that OTA has jurisdiction over reimbursement claims related to Business Taxes and Fees. Subdivisions (b)(1) through (13) list the business tax and fee pro-

grams for which a reimbursement claim may be considered by OTA.

30702. Appeals from FTB

Proposed Regulation 30702 provides specific guidance to taxpayers who have filed appeals from actions of the FTB with OTA regarding the types of fees and expenses that may be reimbursable, and to make it clear that fees and expenses are reimbursable only if a Panel issues a finding in writing that the action taken by the FTB was unreasonable.

30703. Appeals from CDTFA

Proposed Regulation 30703 provides specific guidance to taxpayers regarding reimbursement claims involving a tax or fee program administered by the CDTFA. Specifically, subdivision (a) provides that only those fees and expenses that were incurred after the date of the notice of determination, jeopardy determination, or claim for refund are eligible for reimbursement. Subdivision (b) provides that fees and expenses “related to a hearing before OTA” may be reimbursable only if (1) the claimant had previously submitted an appeal to OTA; (2) a Panel granted, in whole or in part, the appeal; and (3) a Panel issues a finding in writing that the action taken by CDTFA was unreasonable.

30704. Determination of Reasonable Fees

Proposed Regulation 30704 references the statutes in the Revenue and Taxation Code that provide a limitation on the amount of fees for professional representation that may be regarded as reasonable. With respect to reimbursement claims from actions of the FTB, subdivision (a) refers to Revenue and Taxation Code section 19717(c)(1)(B)(iii). With respect to reimbursement claims in business tax and fee appeals from the CDTFA, subdivision (b) refers to Revenue and Taxation Code section 7156(c)(1)(B)(iii).

30705. Claim Procedure

Proposed Regulation 30705 provides that a reimbursement claim must be submitted to OTA not later than one year after the date the Panel’s decision becomes final, except that OTA may grant extensions of time for submitting the claim upon a showing of good cause. The proposed regulation also provides that, if a claim is incomplete, the claimant will be granted 30 days to complete the claim.

30706. Dismissal; Agency Statement; Responses; Oral Hearings

Proposed Regulation 30706 provides guidance to the Agencies regarding the timeline for submitting a statement in response to a claim for reimbursement, guidance to taxpayers regarding the timeline for filing a response to an Agency’s statement, and information regarding scheduling an oral hearing. Specifically, subdivision (a) provides that a claim must be dismissed if the

appeal was not granted in whole or in part. Subdivision (b) provides that the Agency may submit a response within 60 days of a completed claim, except that OTA may grant extensions upon a showing of good cause. Subdivision (c) provides that a claimant may respond to an Agency statement within 60 days of the mailing of the statement, and if the claimant does so, the Agency may be given an additional 30 days to respond to the new material. Subdivision (d) provides that an oral hearing will be scheduled after the submission of all documents, the parties will receive at least 45 days’ notice of the hearing date and time, and the claimant may waive an oral hearing.

30707. Notice of Decision

Proposed Regulation 30707 informs taxpayers and the Agencies that OTA will send them written notice of its decision on a claim for reimbursement, and that OTA’s decision on a claim is final 30 days from the date it is mailed, with no provision for a petition for rehearing.

Furthermore, the proposed regulatory action proposes to amend sections 5510 and 5600 of the Board of Equalization — Rules for Tax Appeals, which does the following:

5510. GENERAL APPLICATION OF CHAPTER 5

The draft amendments to Regulation 5510 clarify the scope of the board and OTA’s respective jurisdiction over tax appeals. First, the draft amendments add “Limitations on Authority of the Board” to the title of section 5510. In subdivision (a) (which specifies to which types of appeals the chapter applies), the draft amendments delete references to those tax and fee programs over which the board does not have constitutional authority, as provided in Government Code section 15600, subdivision (b). Specifically, the draft amendment to subdivision (a) of section 5510 provides that Chapter 5 in the board’s Rules for Tax Appeals will only apply to appeals submitted to the board for decision under the Alcoholic Beverage Tax law, the Private Railroad Car Tax, Publicly Owned Property, State-Assessed Property, Tax on Insurers Law, and the Welfare Exemption. Former subdivision (c), providing rules and procedures for appeals from actions of the Franchise Tax Board, and subdivision (d) dealing with fuel tax, were deleted because the board no longer hears appeals from the Franchise Tax Board or administers taxes on fuel. Instead, a new subdivision (c) is proposed, which specifies that on or after January 1, 2018, the board will not conduct appeals or tax any other action with respect to an appeal under any of the specified laws, because these listed programs (subdivision (c)(1) through (4)), are those programs which are now subject to the jurisdiction of OTA. Specifically, pursuant to Government Code sections 15600, 15672, and 15674, OTA now hears all appeals of

these types of actions, and the board lacks jurisdiction to take any action with respect to such an appeal. Subdivision (d) goes on to provide that the board's Rules for Tax Appeals shall not apply to an appeal before OTA, and instead, OTA's Rules for Tax Appeals shall apply to such an appeal.

5600. DEFINITIONS, BOARD HEARING PROCEDURES; TAXES AFFECTED BY THIS CHAPTER.

The draft amendments to Regulation 5600 clarify the scope of reimbursement claims over which the board and OTA, respectively, have jurisdiction. Subdivision (b) is amended to clarify that Chapter 6 of the board's Rules for Tax Appeals applies to reimbursement claims submitted under the Alcoholic Beverage Tax, and Private Railroad Car Tax, because these programs are retained by the board pursuant to Government Code section 15600, subdivision (b). The remaining tax and fee programs were deleted from subdivision (b) of Regulation 5600, because these programs are not constitutional functions of the board as provided in subdivision (b) of Government Code section 15600. Former subdivision (c), dealing with fuel tax, was deleted because the board no longer administers taxes on fuel. Instead, a new subdivision (c) is proposed, which specifies that on or after January 1, 2018, the board will not conduct appeals or tax any other action with respect to an appeal under any of the specified laws, because these listed programs (subdivisions (c)(1) through (4)), are those programs which are now subject to the jurisdiction of OTA. Specifically, pursuant to Government Code sections 15600, 15672, and 15674, OTA now hears all appeals of these types of actions, and the board lacks jurisdiction to take any action with respect to such an appeal. Subdivision (d) goes on to provide that the board's Rules for Tax Appeals shall not apply to an appeal before OTA, and instead, OTA's Rules for Tax Appeals shall apply to such an appeal.

California Code of Regulations, title 18, division 2.1, Chapter 4: Appeals from Actions of the Franchise Tax Board (Regulation sections 5410 through 5465).

The proposed regulatory action also repeals Chapter 4: Appeals from Actions of the Franchise Tax Board, in its entirety from the board's Rules for Tax Appeals because, pursuant to Government Code sections 15600, 15672, and 15674, OTA now hears all appeals from such actions, and the board lacks jurisdiction to take any action with respect to such an appeal.

CONSISTENCY AND COMPATIBILITY WITH EXISTING FEDERAL LAW OR REGULATIONS

OTA has determined that there are no comparable federal regulations or statutes.

NO MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OTA has determined that the adoption of the proposed regulatory action, including the adoption of proposed regulations, proposed amendments to existing regulations, and proposed repeal of existing regulations, hereinafter "proposed regulatory action," will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement pursuant to title 2, division 4, part 7 (commencing with section 17500) of the Government Code.

NO COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY OR SCHOOL DISTRICT

OTA has determined that the adoption of proposed regulatory action will result in no direct or indirect cost or savings to any state agency and will result in no cost or savings in federal funding to the State of California. OTA also determined that the adoption of the proposed regulatory action will result in no direct or indirect cost to any local agency or school district that is required to be reimbursed under title 2, division 4, part 7 (commencing with section 17500) of the Government Code, and will result in no other non-discretionary cost or savings imposed on local agencies.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

OTA has made an initial determination that adoption of the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESS

The adoption of the proposed regulatory action might affect small business.

NO KNOWN COST IMPACTS TO PRIVATE PERSONS OR BUSINESS

OTA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3(b)

OTA has determined that the proposed adoption of the regulatory action is not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, OTA has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. OTA has determined that the adoption of the proposed regulatory action will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, OTA has determined that the adoption of the proposed regulatory action will not affect the benefits of the regulations to the health and welfare of California residents, worker safety, or the state's environment. As discussed in greater detail, above, OTA anticipates that the adoption of the proposed regulatory action will benefit OTA, FTB, CDTFA, local entities, taxpayers, representatives, and the general public by creating a comprehensive set of procedural regulations which cover, clarify, and explain all of OTA's administrative review functions with regard to conducting an appeal, and thereby improving the public's understanding of the administrative review process, and ensuring transparency and fairness in the conduct of appeals before OTA.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of the proposed regulatory action will not have a significant effect on housing costs.

STATEMENT REGARDING ALTERNATIVES

OTA must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, 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 and equally effective in implementing the statutory pol-

icy or other provision of law than the proposed regulatory action.

OTA invites interested persons to present statements with respect to alternatives to the proposed regulatory action during the written comment period.

CONTACT PERSONS

Written comments for OTA's consideration, requests, and any other inquiries concerning the proposed regulatory action should be directed to Ms. Myriam Bouaziz, Deputy Director Legislation, by email at regulations.ota@ota.ca.gov or Myriam.Bouaziz@ota.ca.gov; or by telephone at (916) 926-3918; or by fax at (916) 492-2089; or by mail to Office of Tax Appeals, Attn: Myriam Bouaziz, P.O. Box 989880, West Sacramento, CA 95798-9880.

The backup contact person for these inquiries is Andrew Kwee, Administrative Law Judge III, who may be reached by email at regulations.ota@ota.ca.gov or Andrew.Kwee@ota.ca.gov; or by telephone at (916) 292-1158; or by fax at (916) 492-2089; or by mail to Office of Tax Appeals, Attn: Andrew Kwee, P.O. Box 989880, West Sacramento, CA 95798-9880.

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to OTA. Comments may also be submitted via email to the following email address: regulations.ota@ota.ca.gov. Comments may also be submitted to Myriam Bouaziz at the postal address, email address, or fax number provided above, prior to the close of the written comment period. The written comment period closes at 5:00 p.m. on August 27, 2018. OTA will consider only comments received at OTA's offices by that time.

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

OTA has prepared a copy of the text of the proposed regulatory action illustrating its express terms. The proposed Office of Tax Appeals — Rules for Tax Appeals are not illustrated in underline or italics format because California Code of Regulations, title 1, section 8, subdivision (b) provides that “[u]nderline or italic is not required for the adoption of a new regulation or set of regulations if the final text otherwise clearly indicates that all of the final text submitted to OAL for filing is added to the California Code of Regulations.” OTA has also prepared an initial statement of reasons for the adoption of the proposed regulatory action, which includes the

economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information upon which the proposed regulatory action is based are available to the public upon request.

OTA will have the entire rulemaking file available for public inspection throughout the rulemaking process at its offices located at 400 R Street, Sacramento, CA, 95811. Copies may be obtained by contacting the contact persons identified above. Alternatively, the express terms of the proposed regulatory action and the rest of the rulemaking file are also available on the OTA's Website at ota.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

OTA may adopt the proposed regulatory action with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, OTA will make the full text of the proposed regulatory action, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulations will be mailed to those interested parties who commented on the original proposed regulations orally or in writing or who asked to be informed of such changes. The text of the resulting regulations will also be available to the public by contacting the designated contact persons identified above. OTA will consider written comments on the resulting regulations that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If OTA adopts the proposed regulatory action, OTA will prepare a final statement of reasons, which will be made available for public inspection throughout the rulemaking process at its offices located at 400 R Street, Sacramento, CA, 95811, and will also be available on OTA's Website at ota.ca.gov.

EFFECTIVE DATE

It is anticipated that OTA's emergency regulations will expire on December 31, 2018, and it is further anticipated that the proposed regulatory action will become effective January 1, 2019. OTA may request an early effective date pursuant to Government Code sec-

tion 11343.4 to ensure that the proposed regulatory action is effective on January 1, 2019.

TITLE 22. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

TITLE 22, DIVISION 7, CHAPTER 9.5: PRESCRIPTION DRUG PRICING FOR PURCHASERS

Sections 96060, 96061, 96062, 96065, 96070, 96071, 96075, 96076, 96077, 96078, 96080, 96081, 96082, 96083, 96084, 96085, 96086, and 96087

The Office of Statewide Health Planning and Development (OSHPD) proposes adding new Chapter 9.5. Prescription Drug Pricing for Purchasers (Sections 96060–96087) to Title 22 of the California Code of Regulations. Chapter 9.5 will implement Chapter 9. Prescription Drug Pricing for Purchasers (Health and Safety Code section 127675 et seq.) added by Senate Bill (SB) 17 (Chapter 603, Statutes of 2017). The Office proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

SB 17 made a number of changes to California law to address prescription drug costs. The bill affects several state agencies. One major component of the Legislation added Chapter 9. Prescription Drug Pricing for Purchasers, to Part 2 of Division 107 of the Health and Safety Code (section 127675 et seq.). Chapter 9. Prescription Drug Pricing for Purchasers establishes a new, statutorily mandated program for OSHPD. Health and Safety Code section 127676 includes the following statements: "The Legislature finds and declares that the State of California has a substantial public interest in the price and cost of prescription drugs. . . . It is the intent of the Legislature in enacting this chapter to provide notice and disclosure of information relating to the cost and pricing of prescription drugs in order to provide accountability to the state for prescription drug pricing." The bill authorizes OSHPD to adopt regulations or issue guidance for the implementation of Chapter 9.

The program has two basic components. Prescription drug manufacturers, as defined, must notify OSHPD within three days of introducing a new drug at a wholesale acquisition cost that exceeds the specified threshold. Within 30 days of this notification, manufacturers must report additional information to OSHPD. Additionally, prescription drug manufacturers, as defined, are required to report to OSHPD information on the rationale for existing prescription drug cost increases that meet identified thresholds.

I. PUBLIC HEARING

OSHPD has scheduled a public hearing on this proposed action. The public hearing will be held on August 29, 2018 from 2:00 to 3:00 p.m. at 2020 West El Camino Avenue, Sacramento, CA 95833.

II. WRITTEN PUBLIC COMMENT PERIOD AND CONTACT PERSON

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. All comments must be received by OSHPD by 5:00 p.m. on August 29, 2018.

Inquiries and written comments regarding the proposed action should be addressed to the primary contact person named below. Comments delivered by email are suggested. Comments may also be faxed, hand delivered, or mailed.

Ty Christensen, Manager
Information Services Division
Office of Statewide Health Planning
and Development
Fax: (916) 322-1442
Tel: (916) 326-3856
Email: ty.christensen@oshpd.ca.gov
Mailing address: 2020 West El Camino Avenue,
Suite 1100
Sacramento, CA 95833-1880

Inquiries and comments may also be directed to the backup contact person at the same mailing address:

Starla Ledbetter, Branch Chief
Information Services Division
Office of Statewide Health Planning
and Development
Fax: (916) 322-1442
Tel: (916) 326-3984
Email: starla.ledbetter@oshpd.ca.gov

III. AUTHORITY AND REFERENCE

Authority: California Health and Safety Code, Section 127685.

Reference: California Health and Safety Code, Sections 127675, 127677, 127679, and 127681.

IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

a. Summary of Existing Laws and Regulations

This proposed rulemaking is intended to implement a new statutorily mandated program, Chapter 9. Prescrip-

tion Drug Pricing for Purchasers (Health and Safety Code section 127675 et seq.), added by SB 17 (Chapter 603, Statutes of 2017).

b. Policy Statement Overview/Specific Benefits of Proposed Regulations

OSHPD proposes adding new Chapter 9.5. Prescription Drug Pricing for Purchasers to Title 22 of the California Code of Regulations. Chapter 9.5 will implement Chapter 9. Prescription Drug Pricing for Purchasers (Health and Safety Code section 127675 et seq.) added by SB 17 (Chapter 603, Statutes of 2017).

SB 17 made a number of changes to California law to address prescription drug costs. The bill affects several state agencies. One major component of the Legislation adds Chapter 9. Prescription Drug Pricing for Purchasers, to Part 2 of Division 107 of the Health and Safety Code (section 127675 et seq.). Chapter 9. Prescription Drug Pricing for Purchasers establishes a new, statutorily mandated program for OSHPD. Health and Safety Code section 127676 includes the following statements: "The Legislature finds and declares that the State of California has a substantial public interest in the price and cost of prescription drugs. . . . It is the intent of the Legislature in enacting this chapter to provide notice and disclosure of information relating to the cost and pricing of prescription drugs in order to provide accountability to the state for prescription drug pricing," which creates a positive impact to the health and safety of Californians. The bill authorizes OSHPD to adopt regulations or issue guidance for the implementation of Chapter 9.

The program has two basic components. Prescription drug manufacturers, as defined, must notify OSHPD within three days of introducing a new drug at a wholesale acquisition cost that exceeds the specified threshold. Within 30 days of this notification, manufacturers must report additional information to OSHPD. Additionally, prescription drug manufacturers, as defined, are required to report to OSHPD information on the rationale for existing prescription drug cost increases that meet identified thresholds.

c. Determination of Inconsistency/Incompatibility with Existing State Regulations

As required by Government Code section 11346.5(a)(3)(D), OSHPD evaluated the language contained in the proposed regulations. OSHPD has determined that these proposed regulations are not inconsistent with or incompatible with existing state regulations. These regulations are necessary to implement a new statutorily mandated program.

d. Documents Incorporated by Reference

Format and File Specifications for Submission of Prescription Drug Reports Version 1.0, dated June 30, 2018.

V. DISCLOSURES REGARDING THE PROPOSED ACTION

OSHPD has made the following initial determinations:

- a. Mandate on local agencies and school districts: None.
- b. Cost or savings to any state agency: OSHPD has identified costs of \$500,000 in fiscal year 2018–19, and \$800,000 in fiscal year 2019–20 and ongoing to implement the requirements of SB 17. Potential penalties up to \$23 million for late reporting of the required information by drug manufacturers are a potential revenue to the Managed Health Care Fund.
- c. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- d. Other nondiscretionary cost or savings imposed on local agencies: None.
- e. Cost or savings in federal funding to the state: None.
- f. Cost impact on a representative person or business: New regulations are required to implement Chapter 9. Prescription Drug Pricing for Purchasers (Health and Safety Code section 127675 et seq.). Drug manufactures may incur up to \$200 per year to upload the statutorily required information to the online portal prescribed by these proposed regulations.
- g. Statewide adverse economic impact directly affecting businesses and individuals: The Office has made an initial determination that the regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- h. Significant effect on housing costs: None.
- i. Cost impact on small business: This proposed action does not affect small business because no entities regulated under the proposed action are small businesses. OSHPD is not aware of any manufacturer of a prescription drug that qualifies as a small business.

VI. STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS (EIA)

New regulations are required to implement Chapter 9. Prescription Drug Pricing for Purchasers (Health and Safety Code section 127675 et seq.). OSHPD has nar-

rowly tailored the proposed regulations to implement the statutory requirements for the new program. The proposed regulations impose only minor additional reporting or other requirements on any businesses, organizations, or individuals.

Therefore, OSHPD concludes that:

- (1) this regulatory action will not create jobs within the state;
- (2) this regulatory action will not eliminate jobs within the state;
- (3) this regulatory action will not create new businesses;
- (4) this regulatory action will not eliminate existing businesses;
- (5) this regulatory action will not affect the expansion of businesses currently doing business in the state; and
- (6) The benefits of the regulations to the health and welfare of California residents, worker safety, and the state’s environment are to achieve the goals of SB 17, as related to Chapter 9. Prescription Drug Pricing for Purchasers. Health and Safety Code section 127676 includes the following statements: “The Legislature finds and declares that the State of California has a substantial public interest in the price and cost of prescription drugs. . . . It is the intent of the Legislature in enacting this chapter to provide notice and disclosure of information relating to the cost and pricing of prescription drugs in order to provide accountability to the state for prescription drug pricing.”

VII. REASONABLE ALTERNATIVES

OSHPD must determine that no reasonable alternative considered by OSHPD or that has otherwise been identified and brought to the attention of OSHPD would be more effective in carrying out the purpose for which the action is proposed, 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 and equally effective in implementing the statutory policy or other provision of law.

VIII. AVAILABILITY OF EXPRESS TERMS, INITIAL STATEMENT OF REASONS, AND INFORMATION UPON WHICH PROPOSED RULEMAKING IS BASED

The Office will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address given for the contact persons. As of the date this notice is published in the Notice Register, the rulemaking file consists of this

notice, the text of the proposed regulations, and information upon which proposed rulemaking is based. Additionally, the Format and File Specifications document incorporated by reference, the initial statement of reasons, and an economic impact analysis contained in the initial statement of reasons are also available.

IX. AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL

After considering all timely and relevant comments received, OSHPD may adopt the proposed regulations substantially as described in this notice. If OSHPD makes modifications which 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 OSHPD adopts the regulations as revised.

Please send requests for copies of the modified text to the listed contact person. The modified text will also be available on the website at <http://www.oshpd.ca.gov/Laws-Regs.html>. OSHPD will accept written comments on the modified regulations for 15 days after the date on which they are made available.

X. AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons, including all of the comments and responses, will be available, after its completion, through the OSHPD website at <http://www.oshpd.ca.gov/Laws-Regs.html>. The Final Statement of Reasons will also be available for review from the designated contact person.

XI. AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the proposed regulations, and the Format and File Specifications for Submission of Prescription Drug Reports Version 1.0 can be accessed through the OSHPD website at <http://www.oshpd.ca.gov/Laws-Regs.html>.

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) REGARDING AMENDMENTS TO THE 2016 CALIFORNIA BUILDING CODE AND 2016 CALIFORNIA RESIDENTIAL CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PARTS 2 AND 2.5

(HCD-EF 01/18)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Parts 2 and 2.5. HCD is proposing amendments to building standards in the 2016 California Building Code (CBC) and 2016 California Residential Code (CRC) related to Emergency Housing.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from July 13, 2018, until 5:00 p.m. on August 27, 2018.

Please address your comments to:

California Building Standards Commission
Attention: Mia Marvelli, Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Written comments may be emailed to CBSC@dgs.ca.gov.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code Sections 17000–17062.5, 17910–17995.5, 18200–18700, 18860–18874, and 19960–19997; Civil Code Sections 1101.4 and 1101.5; and Government Code Sections 12955.1 and 12955.1.1.

HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1, 18873.2, 18873.3, 18873.4, 18873.5, 18938.3, 18944.11, and 19990; and Government Code Section 12955.1.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code Section 17921 and Government Code Section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

Health and Safety Code Section 17922 requires that the building standards be essentially the same as the most recent editions of the uniform industry codes with

any additions or deletions by HCD. The CBSC is authorized to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5.

Health and Safety Code Section 19990 requires HCD to adopt building standards for factory-built housing.

Health and Safety Code Sections 18300 and 18865 require HCD to adopt building standards for mobile-home parks and special occupancy parks.

HSC Section 18937 provides that a proposing agency can propose a finding of emergency in accordance with Government Code Sections 11346.1 and 11346.5.

HSC Section 18938 requires the filing of emergency standards with the Secretary of State by CBSC only after they have been approved by the commissioners. It requires that the standards become effective when filed with Secretary of State or at a later date specified in the standards, and that they be published in California Code of Regulations, Title 24.

Government Code Section 11346.1(e) states that no regulation, amendment, or order of repeal initially adopted as an emergency regulatory action shall remain in effect more than 180 days unless the adopting agency has complied with Sections 11346.2 to 11347.3, inclusive, either before adopting an emergency regulation or within the 180-day period. The adopting agency, prior to the expiration of the 180-day period, shall transmit to the office for filing with the Secretary of State the adopted regulation, amendment, or order of repeal, the rulemaking file, and a certification that Sections 11346.2 to 11347.3, inclusive, were complied with either before the emergency regulation was adopted or within the 180-day period.

Summary of Existing Regulations

The 2016 CBC and 2016 CRC, Parts 2 and 2.5 of Title 24 of the California Code of Regulations (CCR), also known as the California Building Standards Code, adopted by reference the 2015 International Building Code (IBC) and 2015 International Residential Code (IRC) with California amendments, effective on January 1, 2017.

Summary of Effect

HCD proposes to amend the 2016 edition of the CBC and CRC, Title 24, Parts 2 and 2.5, of the California Code of Regulations. The proposed action will make permanently effective, upon approval of adoption, approval by the commissioners, and filing with Secretary of State, the addition of Appendix N in Title 24, Part 2, and Appendix X in Title 24, Part 2.5. Although adopted by HCD, the proposed appendices are voluntary, and will be mandatory only if adopted by a local jurisdiction.

The proposed appendices are intended to provide a consistent and available standard by which local agen-

cies may develop emergency housing or shelter ordinances and provide a minimum set of building standards for compliance. The proposed emergency regulations also provide a consistent standard for HCD to review, provide recommendations, and approve local emergency housing or shelter ordinances that are submitted to HCD for review. The formal adoption of these standards into the CBC and CRC also protects HCD from use and enforcement of underground regulations not formally adopted in accordance with the Building Standards Law.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

Assembly Bill (AB) 932 (Chapter 786, Statutes of 2017) authorizes the Cities of Berkeley, Emeryville, Los Angeles, Oakland, and San Diego, the County of Santa Clara, and the City and County of San Francisco to adopt, by ordinance, reasonable local standards and procedures for design, site development and operation of homeless shelters and structures and facilities within. AB 932 also requires HCD to review the city/county draft ordinance to ensure it meets minimum health and safety standards. Currently, there are no standards in the 2016 CBC or 2016 CRC specifically addressing all types of shelters that are suitable for use as emergency housing.

AB 2176 (Chapter 691, Statutes of 2016) authorized the City of San Jose to adopt, by ordinance, reasonable local standards for the design, site development, and operation of emergency bridge housing communities and structures and facilities within. AB 2176 also provided specific requirements for emergency sleeping cabins (as defined) which addressed lighting, heating, ventilation, single electrical receptacle, forms of egress, locks, accessibility, and smoke alarms. The provisions of AB 2176 are operative until January 1, 2022, and effective until conforming standards are approved for the CBSC.

HCD finds that provisions currently being amended to the 2016 CBC and CRC are critical and that there should be no undue delay in enacting measures to provide construction guidance to local agencies for emergency housing as well as minimum standards for reviewing and evaluating draft local ordinances for HCD approval or disapproval.

Evaluation of Consistency

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4)

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5)

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. HCD's proposal does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6)

See HCD's "Economic and Fiscal Impact Statement" (Form 399)

- A. Cost or Savings to any state agency: **NO**.
Health and Safety Code Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to CBSC pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of the Government Code. Part 2.5 of the Government Code requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location with the CBC and CRC to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
Health and Safety Code Section 17951 provides that local enforcement agencies may prescribe fees to defray the costs of enforcement of the State Housing Law including compliance with these regulations.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**.
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**.
- E. Cost or savings in federal funding to the state: **NO**.

Estimate: HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF SIGNIFICANT
STATEWIDE ADVERSE ECONOMIC IMPACT
ON BUSINESSES

Reference: Government Code Section 11346.5(a)(7)

HCD has made an initial determination that the adoption/amendment/repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8)

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11)

N/A. HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9)

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10)

HCD has assessed whether and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of businesses within the State of California.

C. The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations will update and improve building standards related to the construction and maintenance of emergency housing.

ESTIMATED COST OF COMPLIANCE OF
STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12)

HCD has made an initial determination that this proposal would not have a significant effect on housing costs. The CBSC contact person designated below will make HCD's initial evaluation of the effect of the proposed regulatory action on housing costs available upon request. (See Economic Impact of the Proposed California Building Code Regulations on Private Persons and Businesses in the State of California in the rulemaking file.)

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13)

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD 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 and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF
RULEMAKING DOCUMENTS
Reference: Government Code Sections
11346.5(a)(16) and 11346.5(a)(20)

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting CBSC. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: <http://www.bsc.ca.gov/>.

In addition, rulemaking documents will be posted on HCD's website: <http://www.hcd.ca.gov/building-standards/building-code/index.shtml>

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: www.bsc.ca.gov.

Reference: Government Code Section 11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Government Code Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS
Reference: Government Code Section 11346.5(a)(14)

General questions regarding procedural and administrative issues should be addressed to:

Gary Fabian
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Stoyan Bumbalov, Codes and Standards
Administrator I
Department of Housing and Community
Development
Division of Codes and Standards
Telephone: (916) 263-4715
Email: Stoyan.Bumbalov@hcd.ca.gov
Fax: (916) 327-4712

Emily Withers, Codes and Standards
Administrator II
Department of Housing and Community
Development
Division of Codes and Standards
Telephone: (916) 263-2998
Email: Emily.Withers@hcd.ca.gov
Fax: (916) 327-4712

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

**CESA CONSISTENCY DETERMINATION
REQUEST FOR**

Ash Hill Broadband Communication Tower Project
2080-2018-006-06
San Bernardino County

The California Department of Fish and Wildlife (CDFW) received a notice on June 26, 2018 that Inter-Connect Towers, LLC proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the construction, operation and maintenance of a multi-carrier communications facility on approximately 0.23 acres of land and the use of up to 5.77 miles of a largely existing Bureau of Land Management designated open access route off Highway 66. Proposed activities will include, but are not limited to, grading, clearing and excavation of the site; laying of foundations; and construction of the communications tower, equipment shelter, and solar arrays. The proposed project will occur approximate 7.8 miles east of Ludlow, California, just south of the Interstate 40 Right-of-Way.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (Service Ref. No. 1-8-97-F-17) in a memorandum to the U.S. Bureau of Land Management on August 22, 1997, which considered the effects of small projects in Imperial, Inyo,

Kern, Los Angeles, Riverside and San Bernardino Counties on the state and federally threatened desert tortoise (*Gopherus agassizii*).

Pursuant to California Fish and Game Code section 2080.1, InterConnect Towers, LLC is requesting a determination that the Biological Opinion (BO) and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, InterConnect Towers, LLC will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF FISH AND WILDLIFE

CONSISTENCY DETERMINATION NO. 2080–2018–005–03

Project: Critical Repairs Conducted under Phase III of the 2017 Storm Damage Department of Water Resources Emergency Rehabilitation (SDDER) Project

Location: Yolo, Sacramento, and Solano Counties

Applicant: California Department of Water Resources

Background

The California Department of Water Resources (Applicant) proposes to repair nine levee sites within the State Plan of Flood Control (SPFC) that were impacted from erosion and other damage to the levee and facilities during the winter storms of 2016/2017. The Critical Repairs Conducted under Phase III of the 2017 SDDER Project (Project) includes repair of levees within Yolo, Sacramento, and Solano counties. The site names are (1) Site 31, Elk Slough, LMA–119; (2) Site 32, Elk Slough, LMA–122; (3) Site 33, Elk Slough, LMA–139; (4) Site 34, Elk Slough, LMA–140; (5) Site 35, Cache Slough, LMA–216; (6) Site 36, Lindsey Slough, LMA–191; (7) Site 37, Steamboat Slough, LMA–147; (8) Site 38, Irrigation Canal W near Yolo Bypass, LMA–283; and (9) Site 39, Irrigation Canal W near Yolo Bypass, LMA–285.

The Project will include the following activities at each location: (1) mobilization — site access and staging areas, (2) site preparation, (3) construction sequencing, and (4) demobilization — restoration and cleanup.

Mobilization includes creation of temporary access roads, if needed; securing the site; and transporting equipment and materials to the site for later repair phases

(e.g. clearing and grubbing, and construction of the repair). Site preparation includes marking vegetation identified for protection, vegetation removal, installation of turbidity curtains, trash removal, clearing, and grubbing. Construction includes excavation of existing rock and levee soils disturbed by failure, grading, excavation of key trenches, placement of geotextile and rock material, hauling away of excavated material, and re-seeding. Demobilization includes removal of equipment and materials from the repair sites and disposal of excess materials. Applicant will rip, seed for revegetation, and restore to pre–Project conditions staging areas and temporary access roads. Applicant will clean and clear rubbish from all areas. Equipment required for levee repair work will include a bobcat, compactors, water truck, excavator, barges, loader, bulldozer, dump trucks, pick-up trucks, and/or a barge crane. The Project will occur throughout the summer and fall of 2018 (i.e., July through October). Each site will require approximately two to four weeks of active construction. All work will take place during daylight hours and no nighttime lighting will be required.

The Project activities described above are expected to incidentally take¹ giant garter snake (*Thamnophis gigas*) (GGS) (Site 38, Irrigation Canal W near Yolo Bypass, LMA–283 and Site 39, Irrigation Canal W near Yolo Bypass, LMA–285) and Delta Smelt (*Hypomesus transpacificus*) where those activities take place within and adjacent to the specific Project sites at Elk Slough, Lindsey Slough, Steamboat Slough, and Irrigation Canal W near Yolo Bypass. In particular, GGS and Delta Smelt could be incidentally taken as a result of the clearing, grubbing, grading, excavating, installation of rock material, soil compaction, and crushing by equipment or vehicles. GGS and Delta Smelt are designated as threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and as threatened (GGS) and endangered (Delta Smelt) species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subds. (b)(4)(E) and (a)(2)(O), respectively.)

GGS individuals are documented as present less than two (2) miles from the two (2) Project sites (site 38, Irrigation Canal W near Yolo Bypass, LMA–283 and site 39, Irrigation Canal W near Yolo Bypass, LMA–285) and there is suitable GGS habitat within and adjacent to the Project sites. The repair sites are on a canal that

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Information. Center v. California Department of Forestry and Fire Protection* (2008) 44 CAL.4th 459,507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’ . . . means to catch, capture or kill”).

serves as aquatic habitat for GGS with upland habitat along the bank and levee slope. Delta Smelt individuals are documented as present year round at Cache and Lindsey Sloughs (Site 35, Cache Slough, LMA-216 and Site 36, Lindsey Slough, LMA-191) and the other sites at Elk Slough and Steamboat Slough are used when Delta Smelt move into the upper reaches of the system in winter and spawn. Larval smelt move west in the spring and summer. Because of the proximity of the nearest documented GGS and Delta Smelt, dispersal patterns of GGS and Delta Smelt, and the presence of suitable GGS and Delta Smelt habitat within the Project site, the United States Fish & Wildlife Service (Service) determined that GGS and Delta Smelt are reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of GGS and Delta Smelt.

According to the Service, the Project will result in the permanent loss 1.001 acres of upland GGS habitat and 0.522 acres of aquatic Delta Smelt habitat, totaling 1.523 acres of permanent habitat loss.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the United States Army Corps of Engineers (USACE) consulted with the Service as required by the ESA. On April 18, 2018, the Service issued a biological opinion (BO) (Service file No. 08ESMF00-2018-F-1716) to the USACE. On May 2, 2018, the Service issued a revised biological opinion (Service file No. 08ESMF00-2018-F-1716-R001; hereafter BO) to the USACE. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures. The BO also requires the Applicant to implement and adhere to measures contained within the Project Biological Assessment and Essential Fish Habitat Assessment.

On May 31, 2018, the Director of the Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the BO and its related ITS are consistent with CESA for purposes of the Project and GGS and Delta Smelt. (Cal. Reg. Notice Register 2018, No. 22-Z, p. 874.)

Determination

CDFW has determined that the BO, including the ITS, is consistent with CESA as to the Project, GGS, and Delta Smelt because the mitigation measures contained in the BO and ITS as well as the conditions in the Biological Assessment and Essential Fish Habitat Assessment, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of GGS and

Delta Smelt will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO, ITS, Biological Assessment, and Essential Fish Habitat Assessment will minimize and fully mitigate the impacts of the authorized take, are roughly proportional in extent to the impact of the authorized taking, and are capable of successful implementation; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of GGS and Delta Smelt. The mitigation measures in the BO, ITS, Biological Assessment, and Essential Fish Habitat Assessment include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- Any areas that cannot be restored, the Applicant shall compensate through the purchase of compensatory mitigation credits from a Service- and CDFW-approved bank at a ratio of 1:1 for permanent impact areas where earthen fill is applied, 2:1 ratio for permanent impact areas where geotextile fabric is applied and 0.5:1 for temporary impact areas within 200 feet of aquatic habitat (see below). Applicant shall purchase a total of 1.594 acres of GGS habitat credits.
- Where shallow water habitat cannot be feasibly avoided and is filled or otherwise impacted, then the Applicant will secure shallow water habitat (smelt) credits at a Service- and CDFW-approved mitigation bank for impacts at the emergency repair areas, at a ratio of either 1:1 or 3:1 depending on site-specific conditions (see below). Construction at the seven (7) sites will affect a total of 0.522 acre of shallow water habitat. Applicant shall purchase a total of 1.074 acres of credits.
- When possible, the Applicant will complete emergency work activities in GGS upland habitat between May 1 and October 1. If it is not possible to complete the work by October 1, work may continue past October 1 provided earthwork has been begun by September 16, ambient air temperatures exceed 75° F during work, and maximum daily air temperatures have exceeded 75° F for at least three consecutive days immediately preceding work. The Applicant will notify the Service and CDFW of work in these locations. The Applicant will include a justification for the request and any additional information the Service or CDFW deem necessary. The Service and CDFW may require the Applicant to apply additional conservation measures.

- If GGS are observed in an emergency work area, the Applicant will stop work in the immediate area until the snake is out of the Project area and will notify the qualified biologist immediately. If possible, the Applicant will allow the snake to leave on its own, and the qualified biologist will remain in the area until the biologist deems his or her presence no longer necessary to ensure that the snake is not harmed. If the snake does not leave the emergency work area on its own volition, the Applicant will consult CDFW and the Service to identify next steps. This may include the capture and relocation of the snake unharmed to a suitable habitat at least 200 feet from the emergency work area by a qualified biologist. The Applicant will notify CDFW and the Service by telephone or e-mail within 24 hours of a GGS observation during emergency activities.
- The Applicant shall install turbidity curtains or similar methods during in-channel work to control silt and sediment.
- In areas where the Applicant places rock to provide slope protection, the Applicant will place clean soil to fill voids above the water surface, which could potentially provide favorable habitat for nonnative predatory fish species.
- The Applicant shall ensure that a qualified biologist is onsite during all grading, vegetation removal, and trenching activities. A qualified biologist shall be onsite and monitor all locations where emergency repairs will alter GGS hibernacula/refugia.
- The Applicant shall ensure that a qualified biologist surveys areas of planned ground disturbance for burrows, soil cracks, and crevices that may be suitable for use by GGS. The qualified biologist shall complete surveys no more than 3 days before the Applicant conducts any ground-disturbing activities in terrestrial habitat that could support GGS. The qualified biologist will flag or mark any identified burrows, soil cracks, crevices, or other habitat features. If activities stop for more than 14 days, the qualified biologist will repeat the surveys.
- The Applicant shall provide environmental awareness training by a qualified biologist to the construction lead, construction foreman, crew leader, and any contractor personnel working on the construction sites. The training will include descriptions of all special-status fish and wildlife species potentially occurring in the Project area, their habitats, methods of identification, including visual aids. The training will describe activity-specific measures to be followed to avoid impacts.
- The Applicant will use existing staging sites, maintenance roads, and levee crown roads for staging and access to avoid affecting previously undisturbed areas. The Applicant will limit the number of access routes and size of staging and work areas to the minimum number necessary.
- Where it is feasible and practicable (based on the size of the repair area and the repair to be performed), the Applicant shall clearly mark work area limits including access roads, staging and equipment storage areas, stockpile areas for spoil disposal, soils, and materials; fueling and concrete washout areas; and equipment exclusion zones. The Applicant shall ensure that work will occur only within the marked limits.
- The Applicant shall inspect all vehicles for the presence of wildlife (under and around) prior to the start of each workday when equipment is staged overnight. The Applicant shall look for wildlife in all pipes, culverts, and similar structures that have been stored onsite for one or more nights before being buried, capped, or moved.
- The Applicant shall clear vegetation to the minimum necessary, especially native riparian vegetation and native oaks. Where feasible, the Applicant shall avoid removal of native trees with a trunk greater than four inches in diameter at breast height.
- The Applicant shall install erosion control materials that minimize soil or sediment from entering waterways and wetlands. The Applicant shall monitor the erosion control materials for effectiveness and maintain them throughout emergency repairs and monitoring. The Applicant shall immediately repair or replace any erosion control barrier that is not functioning effectively.
- The Applicant shall not use erosion control fabrics with plastic monofilament or cross-joints in the netting that are bound/stitched, which could trap GGS and other wildlife.
- The Applicant shall authorize the qualified biologist to stop emergency repair activities that threaten to cause unanticipated or unpermitted adverse effects on special status species. If the qualified biologist stops repair activities, the qualified biologist will consult with the Service, CDFW, and the National Marine Fisheries Service (NMFS) to determine appropriate measures that the Applicant will implement to avoid adverse effects. The Applicant shall maintain buffers until

there is no longer a threat of disturbance to special status species.

- The Applicant shall immediately notify the qualified biologist if a species is taken or injured by a Project-related activity, or if a species is otherwise found dead or injured within the vicinity of the Project. The initial notification to the Service, CDFW, and NMFS shall include information regarding the location, species, and number of animals taken or injured, and the site number. The Applicant will send a written report within two (2) calendar days. The report shall include the date and time of the finding or incident, the location of the animal or carcass, a photograph, if possible, and an explanation as to the cause of the take or injury.

Monitoring and Reporting Measures

- The Applicant will provide the Service, CDFW, and NMFS with a Final Mitigation Report no later than 45 days after completion of the emergency repairs.

Compensatory Mitigation

- The Applicant provided a funding assurance letter committing to the necessary funds needed to complete all conservation measures and compensatory mitigation consistent with the requirements of CESA, in the form of 1.60 acres of conservation credits for GGS and 1.1 acres of conservation credits for Delta Smelt. The Applicant will provide proof of purchase for GGS credits within 90 days of starting emergency repairs unless the Applicant receives written approval from the Service and CDFW extending this timeline.
- The Applicant shall provide a copy of the bill and sale and payment receipt to CDFW upon the purchase of GGS and Delta Smelt conservation credits.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of GGS and Delta Smelt, provided the Applicant implements the Project as authorized in the ITS, including adherence to all measures contained therein and in the BO, and complies with the mitigation measures and other conditions described in the BO, ITS, Biological Assessment, and Essential Fish Habitat Assessment. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the BO, ITS, Biological Assessment, or Essential Fish Habitat Assessment, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See

generally Fish & G. Code, §§ 2080.1; 2081, subs. (b) and (c)).

PETITION DECISION

BOARD OF ACCOUNTANCY

June 22, 2018

NOTICE OF DECISION AFTER REQUEST FOR RECONSIDERATION

CALIFORNIA CODE OF REGULATIONS TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS DIVISION 1. STATE BOARD OF ACCOUNTANCY ARTICLE 1. ADMINISTRATION — SECTIONS 5000 et seq.

Petitioner:

JoAnn Henkel

Authority:

Business and Professions Code (BPC) section 5010 provides the California Board of Accountancy (CBA) the authority to “adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter.” “This Chapter” relates to the licensing and regulation of Certified Public Accountants (CPA) and the practice of public accountancy in the State of California (BPC section 5000 et seq.).

Contact Person:

Please direct any inquiries regarding this action to Aaron Bone, Information and Planning Officer, 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833.

Availability of Petition:

The petition for adoption of a regulation is available upon request directed to the CBA’s contact person.

INTRODUCTION

On March 22, 2018, Ms. Henkel (Petitioner) provided to the CBA eight separate petitions requesting amendments to certain CBA regulations¹ and the Accountancy Act. The CBA denied the petitions in a No-

¹All section references are to the CBA’s Regulations set forth in Title 16 of the California Code of Regulations, unless otherwise specified.

tice of Decision on Petition to Amend Regulations, dated April 23, 2018 (Decision) pursuant to Government Code, section 11340.7.

On May 24, 2018, the CBA received a petition from Ms. Henkel outlining eight separate “appeals,” seeking reconsideration of the CBA’s Decision; however, some of the “appeals” were not included in the March 22, 2018 request. Petitioner’s submission is treated as a Request for Reconsideration pursuant to Government Code section 11340.7(c) to the extent that each numbered “appeal” requests reconsideration of one of the eight petitions identified in the March 22, 2018 request; any “appeal” identified in Petitioner’s submission that did not appear in the March 22, 2018 petition is considered a new request.

Section 5018 of the BPC authorizes the CBA, by regulation, to prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the CPA profession. The CBA has no authority to amend statutes.

This Notice of Decision After Request for Reconsideration addresses each “appeal” as identified in the May 24, 2018 petition.

APPEAL NO. 1

Discussion

Appeal No. 1 requests the CBA amend Section 58 to read as follows (new language in bold):

Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards **and code of professional conduct (ethics).**

Licensees shall not engage in act of discrimination or act in violation of code of professional conduct against disabled person and senior citizen clients(s) or disabled persons and senior citizen estate/trust beneficiaries.

Proposed Regulation Amendment Does Not Meet Requirements of the Administrative Procedures Act (APA)

Necessity

When pursuing a rulemaking, an agency must satisfy the “necessity” requirement of the APA by demonstrating that the provisions of the regulations being proposed are necessary. Government Code (GC) section 11349(a) states, in relevant part, that:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence

the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Under Section 58, a licensee is subject to all applicable professional standards, including the American Institute of Certified Public Accountants (AICPA) code of professional conduct. For this reason, the CBA would be unable to comply with the necessity requirement of the APA.

Section 125.6(a)(1) of the BPC is a law enforced by the CBA and prohibits discrimination in the performance of a licensed activity. Specifically, this law provides that anyone who holds a license under the BPC is subject to disciplinary action by their licensing entity if the licensee, “makes any discrimination, or restriction in the performance of the licensed activity” because of any characteristic in Civil Code section 51(b) or (e), including but not limited to sex, race, color, religion, ancestry, national origin, disability, medical condition, and genetic information. Because licensees are prohibited from discriminating against individuals in the performance of a licensed activity under BPC section 125.6, the CBA would be unable to comply with the necessity requirement of the APA.

Nonduplication

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

Section 12(a) of title 1 of the California Code of Regulations provides that a regulation serves the same purpose when it repeats or rephrases a statute or regulation.

The proposed amendment to Section 58 would be duplicative of current law. For this reason, the CBA would be unable to comply with the nonduplication requirement of the APA.

Decision

For the reasons stated above, this appeal is denied.

APPEAL NO. 2

Dissussion

Appeal No. 2 requests Section 52(a) be amended to read as follows (new language in bold):

(a) A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested. **(2) A licensee who refuses to make available all files, working papers, and other documents may or may not receive discipline.**

Nonduplication Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

Section 12(a) of title 1 of the California Code of Regulations provides that a regulation serves the same purpose when it repeats or rephrases a statute or regulation.

The proposed amendment to Section 52(a) would be duplicative of current law because under BPC section 5100(g), the board may revoke, suspend, or refuse to renew any permit for “willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.” The Petitioner has not provided sufficient evidence that indicates how adding the requested language to Section 52(a) meets the nonduplication requirement of the APA.

Decision

For the reasons stated above, this appeal is denied.

APPEAL NO. 3

Discussion

Appeal No. 3 requests the CBA amend Section 58 to read as follows (new language in bold):

Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards **and code of professional conduct (ethics).**

Licensees shall not engage in act of discrimination or act in violation of code of professional conduct against disabled person and senior citizen clients(s) [sic] or disabled persons and senior citizen estate/trust beneficiaries.

Necessity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “necessity” requirement of the APA. Government

Code (GC) section 11349(a) states, in relevant part, that:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Under Section 58, a licensee is subject to all applicable professional standards, including the AICPA’s code of professional conduct. For this reason, the CBA would be unable to comply with the necessity requirement of the APA.

Section 125.6(a)(1) of the BPC is a law enforced by the CBA and prohibits discrimination in the performance of a licensed activity. Specifically, this law provides that anyone who holds a license under the BPC is subject to disciplinary action by their licensing entity if the licensee, “makes any discrimination, or restriction in the performance of the licensed activity” because of any characteristic in Civil Code section 51(b) or (e), including but not limited to sex, race, color, religion, ancestry, national origin, disability, medical condition, and genetic information. Because licensees are prohibited from discriminating against individuals in the performance of a licensed activity under BPC section 125.6, the CBA would be unable to comply with the necessity requirement of the APA.

Nonduplication Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

The proposed amendment to Section 58 would be duplicative of current law. For this reason, the CBA would be unable to comply with the nonduplication requirement of the APA.

Decision

For the reasons stated above, this appeal is denied.

APPEAL NO. 4

Discussion

Appeal No. 4 proposes to amend Section 57 to read as follows (new language in bold):

A licensee shall not concurrently engage in the practice of public accountancy and in any other

business or occupation which impairs the licensee's independence, objectivity, or creates a conflict of interest in rendering professional services **for clients, and for client's estate/trust beneficiaries to include disabled person beneficiaries and senior citizen beneficiaries.**

Necessity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the "necessity" requirement of the APA. GC section 11349(a) states, in relevant part, that

"Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Section 57 implements, interprets or makes specific BPC section 5018, which authorizes the CBA to prescribe the rules of professional conduct appropriate to the accountancy profession. Under Section 57, a licensee is prohibited from engaging in activity that impairs his or her independence, objectivity, or creates a conflict of interest in rendering professional services. This prohibition encompasses professional services rendered to all clients, including those mentioned by Petitioner in the proposed amendments. For this reason, the CBA would be unable to comply with the necessity requirement of the APA.

Nonduplication Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the "nonduplication" requirement of the APA. GC section 11349(f) states, in relevant part, that:

"Nonduplication" means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

This proposed amendment to Section 57 would be duplicative of current law. Petitioner has not provided sufficient evidence that indicates how adding the requested language to Section 57 meets the nonduplication requirement of the APA.

Decision

For the reasons stated above, this appeal is denied.

APPEAL NO. 5

Discussion

Appeal No. 5 requests the CBA amend Section 58 to read as follows (new language in bold):

Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards **and code of professional conduct (ethics).**

Licensees shall not engage in act of discrimination or violation of generally accepted accounting principles, generally accepted auditing standards, and code of professional conduct in act perpetrated against disabled person and senior citizen clients(s) or disabled persons and senior citizen estate/trust beneficiaries.

Necessity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the "necessity" requirement of the APA. Government Code (GC) section 11349(a) states, in relevant part, that:

"Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Under Section 58, a licensee is subject to all applicable professional standards, including the AICPA's code of professional conduct. For this reason, the CBA would be unable to comply with the necessity requirement of the APA.

Section 125.6(a)(1) of the BPC is a law enforced by the CBA and prohibits discrimination in the performance of a licensed activity. Specifically, this law provides that anyone who holds a license under the BPC is subject to disciplinary action by their licensing entity if the licensee, "makes any discrimination, or restriction in the performance of the licensed activity" because of any characteristic in Civil Code section 51(b) or (e), including but not limited to sex, race, color, religion, ancestry, national origin, disability, medical condition, and genetic information. Because licensees are prohibited from discriminating against individuals in the performance of a licensed activity under BPC section

125.6, the CBA would be unable to comply with the necessity requirement of the APA.

Nonduplication Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

The proposed amendment to Section 58 would be duplicative of current law because Section 58 as currently promulgated addresses the issue Petitioner is attempting to address with the proposed amendment to the same section. For this reason, the CBA would be unable to comply with the nonduplication requirement of the APA.

Decision

For the reasons stated above, this appeal is denied.

APPEAL NO. 6

Discussion

Petitioner’s Appeal No. 6 requests amendments to the CBA’s mission and vision statements; however, only the vision statement is included in the petition. The proposed language is as follows (new language in bold):

The Vision of the California Board of Accountancy is that all consumers are well-informed of the accountancy act, professional standards, code of professional conduct, and consumer rights on the CBA website, and receive quality accounting services from licenses they can trust.

The CBA’s mission and vision statement may be changed without regulations through the development of its strategic plan. GC Section 11810 through Section 11817 sets forth the State Government Strategic Planning and Performance Review Act of 1993.

Decision

For the reasons stated above, this appeal is denied.

APPEAL NO. 7

Discussion

Appeal No. 7 proposes to amend Section 98 to read as follows (new language in bold):

98.(a) To verify correct and accurate discipline procedure is followed, the Board shall conduct periodic review of the office procedures to ensure that consumer complaint letters, emails, records, documents, and paperwork process both from consumer to CBA office, and from CBA office to consumer, are accurate and maintained in an organized manner to protect a consumer’s right to be informed, integrity of evidence consumer submits, and historical record-keeping accuracy.

(b) In reaching a decision on a disciplinary action under the . . . [sic]

Clarity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “clarity” requirement of the APA. GC section 11349(c) states, in relevant part, that:

“Clarity” means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

The Petitioner’s amendments to Section 98 are unclear. For this reason, the CBA would be unable to comply with the clarity requirement of the APA.

Decision

For the reasons stated above, this rulemaking petition is denied.

Additionally, the Petitioner requests an amendment to page 3 of the CBA’s Committee Member Resource Guide dated October 5, 2017 (Resource Guide), related to the CBA’s Enforcement Advisory Committee (EAC), as follows (new language in bold):

To assist the CBA in an advisory nature with its enforcement activities by:

- **EAC will conduct periodic review of office procedures to verify that consumer complaint letters, emails, records, documents, and paperwork process both from consumer to CBA office, and from CBA office to consumer, are accurate and maintain in an organized manner to protect consumer’s right to be informed, integrity of evidence submitted, and historical record-keeping accuracy.**

The California Legislature created the EAC to provide technical expertise to the CBA. The CBA’s Resource Guide is consistent with existing statute. Although the description in the Resource Guide is not in regulation, the CBA is unable to modify the EAC’s purpose to exceed the statutory authority.

Decision

For the reasons stated above, this rulemaking petition is denied.

APPEAL NO. 8

Discussion

Petition No. 8 proposes to amend Section 58 to include references to certain AICPA materials, and read as follows (new language in bold):

Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards **and code of professional conduct (ethics).**

Licensees shall not engage in act of discrimination or violation of code of professional conduct in act perpetrated against disabled person and senior citizen clients(s) or disabled persons and senior citizen estate/trust beneficiaries.

Licensees will use only standard accounting methods and formats for financial reports and statements prepared for disabled person and senior citizen clients, and for disabled person and senior citizen beneficiaries. Licensees will follow California probate code requirements when preparing trust financial reports for disabled person and senior citizen clients, and disabled person and senior citizen beneficiaries.

Necessity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “necessity” requirement of the APA. GC section 11349(a) states, in relevant part, that:

“Necessity” means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record.

Under Section 58, a licensee is subject to all applicable professional standards, including the AICPA’s code of professional conduct. For this reason, the CBA would be unable to comply with the necessity requirement of the APA.

Section 125.6(a)(1) of the BPC is a law enforced by the CBA and prohibits discrimination in the performance of a licensed activity. Specifically, this law provides that anyone who holds a license under the BPC is subject to disciplinary action by their licensing entity if

the licensee, “makes any discrimination, or restriction in the performance of the licensed activity” because of any characteristic in Civil Code section 51(b) or (e), including but not limited to sex, race, color, religion, ancestry, national origin, disability, medical condition, and genetic information. Because licensees are prohibited from discriminating against individuals in the performance of a licensed activity under BPC section 125.6, the CBA would be unable to comply with the necessity requirement of the APA.

Nonduplication Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “nonduplication” requirement of the APA. GC section 11349(f) states, in relevant part, that:

“Nonduplication” means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

Section 12(a) of title 1 of the California Code of Regulations provides that a regulation serves the same purpose when it repeats or rephrases a statute or regulation.

The proposed amendment to Section 58 would be duplicative of current law because Section 58 as currently promulgated addresses the issue Petitioner is attempting to address with the proposed amendment to the same section. For this reason, the CBA would be unable to meet the nonduplication requirement of the APA.

Clarity Requirement of the APA

When pursuing a rulemaking, an agency must satisfy the “clarity” requirement of the APA. GC section 11349(c) states, in relevant part, that:

“Clarity” means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

The Petitioner’s amendments to Section 58 are unclear as to the definition of “standard accounting methods and formats for financial reports and statements.” For this reason, the CBA would be unable to comply with the clarity requirement of the APA.

Decision

For the reasons stated above, this rulemaking petition is denied.

/s/

Patti Bowers

Executive Officer

California Board of Accountancy

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2018-0607-03
BOARD OF EQUALIZATION
Permanent Certification

Senate Bill 173 (Stats. 2017, ch. 828), as of July 1, 2018, removes the Bureau of Real Estate (the "Bureau") from the Department of Consumer Affairs and instead makes it a department within the Business, Consumer Services, and Housing Agency and renames the Bureau to the Department of Real Estate. As a change without regulatory effect, the State Board of Equalization (the "Board") is revising a reference to the Bureau in its regulations accordingly. Additionally, the Board is making a non-substantive punctuation change by adding a comma between the words "selling" and "leasing" in the following list: "... engaged in buying, selling leasing or managing real estate ..."

Title 18
AMEND: 283
Filed 07/02/2018
Agency Contact
Christopher Mayfield (916) 322-1923

File# 2018-0521-04
BOARD OF FORESTRY AND FIRE PROTECTION
Class II Watercourses Classification Amendments, 2018

In this rulemaking action, the Board amends sections in Title 14 of the California Code of Regulations to extend the sunset date of the methods for determining Class II watercourse type. The sunset date is extended an additional four years. The amendment also eliminates the Department of Forestry and Fire Protection's annual reporting requirements on Class II Watercourse and Lake Protection Zone (WLPZ). The Department will no longer be required to annually report to the Board on the use and effectiveness of the regulations.

Title 14
AMEND: 916.9, 936.9, 956.9
Filed 07/02/2018
Effective 01/01/2019
Agency Contact: Matt Dias (916) 653-8007

File# 2018-0521-02
BUREAU FOR PRIVATE POSTSECONDARY
EDUCATION
Out-of-State Institution Registration

This action by the Bureau for Private Postsecondary Education (Bureau) makes permanent new section 71396, in title 5 of the California Code of Regulations relating to the registration of out-of-state private postsecondary education institutions, including an "Application for Registration or Re-Registration of Out of State Institutions" form that is incorporated by reference. This action also adopts three new sections pertaining to the registration requirements for out-of-state private postsecondary education institutions. This action is a readoption of emergency action 2017-0519-02E.

Title 5
ADOPT: 71396, 71397, 71398, 71399
Filed 07/03/2018
Effective 07/03/2018
Agency Contact: Kent Gray (916) 246-3907

File# 2018-0621-01
CALIFORNIA DEBT LIMIT ALLOCATION
COMMITTEE
Regulations Revision for Qualified Public Educational Facility Bonds

This is an emergency readoption of regulations that enable the provision of tax-exempt, private activity bond allocations to state and local agencies for the purpose of providing public elementary and secondary schools with financing for the construction or improvement of school facilities.

Title 4
ADOPT: 5700, 5710, 5711, 5720, 5721, 5722, 5730, 5731
AMEND: 5000, 5020, 5100
Filed 07/02/2018
Effective 07/02/2018
Agency Contact: Felicity Wood (916) 651-8484

File# 2018-0522-03
CALIFORNIA SCHOOL FINANCE AUTHORITY
Charter Schools Facilities Program

This rulemaking action by the California School Finance Authority amends and repeals sections to revise, reorganize, and update the Charter Schools Facilities Program.

Title 4

AMEND: 10152, 10153, 10154, 10155, 10158 (amended and renumbered), 10159 (amended and renumbered), 10160 (amended and renumbered).

REPEAL: 10156, 10157

Filed 07/03/2018

Effective 10/01/2018

Agency Contact: Katrina Johantgen (213) 620-2305

File# 2018-0516-02

DEPARTMENT OF CONSERVATION**Requirements for California Underground Gas Storage Projects**

This action establishes a comprehensive regulatory framework for Underground Gas Storage (UGS) projects, including standards, specifications, and requirements for well construction, mechanical integrity testing, risk management plans, emergency response plans, UGS project data, monitoring, inspection, and project decommissioning. These regulations are being adopted to implement Senate Bill 887 (Stats. 2016, ch. 673).

Title 14

ADOPT: 1726, 1726.1, 1726.2, 1726.3, 1726.3.1, 1726.4, 1726.4.1, 1726.4.2, 1726.4.3, 1726.5, 1726.6, 1726.6.1, 1726.7, 1726.8, 1726.9, 1726.10

REPEAL: 1724.9

Filed 06/28/2018

Effective 10/01/2018

Agency Contact: Justin Turner (916) 323-2405

File# 2018-0608-02

DEPARTMENT OF CORRECTIONS AND REHABILITATION**Milestone Completion Credit Schedule**

In this emergency action, submitted as operationally necessary pursuant to Penal Code section 5058.3, the Department of Corrections and Rehabilitation amends the Milestone Completion Credit Schedule to add new programs, discontinue programs that are no longer available to inmates, amend the amount of credit earned for some programs, and reorganize the schedule.

Title 15

AMEND: 3043.3

Filed 06/28/2018

Effective 07/01/2018

Agency Contact: Josh Jugum (916) 445-2228

File# 2018-0618-01

DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

This emergency regulation readoption repeals all existing Title 3 California Code of Regulations section

3435(b) quarantine zones for Asian Citrus Psyllid and establishes three nursery-stock and seven bulk-citrus regional quarantine zones and the criteria for determining them. It establishes an appeal process for interested parties to use to challenge inclusion of a county or portion of a county in a specified regional quarantine zone and a list serve subscription for purposes of receiving updates on changes in regional quarantine zones. It also adopts provisions specifying certain exemptions and movement restrictions for host nursery stock and bulk citrus fruit.

Title 3

AMEND: 3435(b)

Filed 06/28/2018

Effective 06/28/2018

Agency Contact: Rachel Avila (916) 403-6813

File# 2018-0619-02

DEPARTMENT OF PUBLIC HEALTH**Skilled Nursing Facilities 3.5 Direct Care Hours**

This emergency rulemaking action by the Department of Public Health adopts regulations implementing minimum staffing requirements for skilled nursing facilities as established by statutes 2017, chapter 52 (SB 97).

Title 22

ADOPT: 72329.2

Filed 06/29/2018

Effective 07/01/2018

Agency Contact: Charlet Archuleta (916) 445-9403

File# 2018-0523-01

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**Covered Electronic Waste Recovery and Recycling Payment Rates**

This file and print action amends the standard statewide covered electronic waste (CEW) recovery and recycling payment rates for non-CRT CEW. This regulation is exempt from the Administrative Procedure Act pursuant to Government Code section 11340.9(g).

Title 14

AMEND: 18660.25, 18660.34

Filed 06/28/2018

Effective 07/01/2018

Agency Contact: Meagan Wilson (916) 341-6077

File# 2018-0605-01

FAIR POLITICAL PRACTICES COMMISSION
Statement of Governance

This action by the Fair Political Practices Commission adopts four new sections regarding governance of the Commission, including the authority of the Com-

mission, authority of the Chair, and authority of the Executive Director.

Title 2

ADOPT: 18308, 18308.1, 18308.2, 18308.3

Filed 07/03/2018

Effective 08/02/2018

Agency Contact: Sasha Linker (916) 322-5660

File# 2018-0523-02

FISH AND GAME COMMISSION

Waterfowl 2018-2019

This rulemaking action for waterfowl hunting establishes a new special management area, identified as the Klamath Basin, and the waterfowl species, hunting season, and daily bag and possession limits for that area. It creates three hunting season segments for geese in the Northeastern California Zone. It adjusts the dates for the 2018-2019 season for the various California waterfowl hunting zones, and it increases the daily bag limit for pintail ducks.

Title 14

AMEND: 502

Filed 06/28/2018

Effective 06/28/2018

Agency Contact: Jon Snellstrom (916) 653-4899

File# 2018-0517-02

STATE WATER RESOURCES CONTROL BOARD

TMDLs for Sediment Toxicity and Pyrethroids in Lower Salinas Watershed

On July 14, 2017, the Central Coast Regional Water Quality Control Board adopted Resolution No. R3-2016-0003, which establishes a Total Maximum Daily Load (TMDL), numeric targets, and implementation plan for sediment toxicity and pyrethroid pesticides in the Lower Salinas River Watershed. The State Water Resources Control Board approved the amendment of the Basin Plan in Resolution No. 2018-0013 on March 6, 2018.

Title 23

ADOPT: 3929.16

Filed 06/28/2018

Effective 06/28/2018

Agency Contact: Peter Meertens (805) 549-3869

File# 2018-0518-04

STATE WATER RESOURCES CONTROL BOARD

Santa Ana Basin Plan: Chino-South Groundwater Management Zone

This action under Government Code section 11353 amends the Water Quality Control Plan for the Santa Ana River Basin. On August 4, 2017, the California Regional Water Quality Control Board, Santa Ana Region,

adopted Resolution No. R8-2017-0036 revising the water quality objective for nitrate as nitrogen from 4.2 mg/L to 5.0 mg/L in the Chino South Groundwater Management Zone. The State Water Resources Control Board approved the amendment under Resolution No. 2018-0004 on February 6, 2018.

Title 23

ADOPT: 3979.9

Filed 07/02/2018

Effective 07/02/2018

Agency Contact: Keith Person (951) 782-4997

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN January 31, 2018 TO
July 4, 2018**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

05/21/18 AMEND: 44

Title 2

07/03/18 ADOPT: 18308, 18308.1, 18308.2, 18308.3

06/21/18 AMEND: 1859.190, 1859.194, 1859.195, 1859.198

06/19/18 AMEND: 554.7

05/17/18 ADOPT: 11027.1 AMEND: 11028

05/16/18 ADOPT: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157, 20158, 20159, 20160, 20161, 20162, 20163, 20164, 20165

05/09/18 AMEND: 321

05/09/18 AMEND: 11034

04/25/18 AMEND: 18401

04/25/18 AMEND: 18450.1

04/23/18 ADOPT: 1859.90.4 AMEND: 1859.2, 1859.90, 1859.90.2, 1859.90.5

04/16/18 AMEND: 1859.2, 1859.51, 1859.70, 1859.82, 1859.93.1

04/12/18 AMEND: 1859.2, 1859.81

04/04/18 AMEND: 41000

04/02/18 ADOPT: 243, 243.1, 243.2, 243.3, 243.4, 243.5, 243.6, 548.120, 548.120.1, AMEND: 249, 266, 266.1, 266.2, 266.3, 548.121, 548.122, 548.123, 548.124

04/02/18 AMEND: 38000, 38000.5, 38000.10

03/20/18 AMEND: 18746.1, 18746.4
 03/20/18 AMEND: 18746.3
 03/20/18 REPEAL: 18901
 03/14/18 ADOPT: 61200, 61201, 61210, 61211,
 61212, 61213, 61214, 61215, 61216,
 61217
 03/12/18 AMEND: 586.1(a)
 03/12/18 ADOPT: 599.855
 03/08/18 ADOPT: 20020, 20021, 20022, 20023,
 20024, 20025, 20026, 20027
 02/27/18 AMEND: 1181.2, 1181.3, 1182.2,
 1182.7, 1182.9, 1182.10, 1182.15,
 1183.1, 1183.2, 1183.3, 1183.4, 1183.6,
 1183.8, 1183.9, 1183.10, 1183.11,
 1183.12, 1183.13, 1183.15, 1183.16,
 1183.17, 1184.1, 1185.1, 1185.2, 1185.3,
 1185.7, 1185.8, 1186.2, 1186.4, 1187.5,
 1187.7, 1187.8, 1187.9, 1187.12,
 1187.14, 1187.15, 1190.1, 1190.2,
 1190.3, 1190.5
 02/22/18 AMEND: 58100
 02/22/18 AMEND: 59800
 02/13/18 AMEND: 18420.1, 18432.5, 18440,
 18531.10, 18533, 18901.1 REPEAL:
 18450.4
 02/13/18 AMEND: 18535
 02/13/18 AMEND: 18247.5, 18402, 18420,
 18423, 18435, 18450.5, 18521.5
 REPEAL: 18225, 18450.3
 02/13/18 AMEND: 11034
 02/07/18 AMEND: 56800

Title 3

06/28/18 AMEND: 3435(b)
 06/21/18 AMEND: 3439(b)
 06/21/18 AMEND: 3591.5
 06/18/18 AMEND: 1280.11
 06/04/18 ADOPT: 8000, 8100, 8101, 8102, 8103,
 8104, 8105, 8106, 8107, 8108, 8109,
 8110, 8111, 8112, 8113, 8114, 8115,
 8200, 8201, 8202, 8203, 8204, 8205,
 8206, 8207, 8208, 8209, 8210, 8211,
 8212, 8213, 8214, 8215, 8216, 8300,
 8301, 8302, 8303, 8304, 8305, 8306,
 8307, 8308, 8400, 8401, 8402, 8403,
 8404, 8405, 8406, 8407, 8408, 8409,
 8500, 8501, 8600, 8601, 8602, 8603,
 8604, 8605, 8606, 8607, 8608
 05/30/18 AMEND: 3439(b)
 05/24/18 AMEND: 3439(b)
 05/24/18 AMEND: 6502
 05/18/18 AMEND: 3439(b)
 04/30/18 AMEND: 3439(b)
 04/04/18 AMEND: 3591.15
 03/27/18 AMEND: 3439(b)

03/26/18 AMEND: 3439(b)
 03/13/18 AMEND: 3591.15
 03/01/18 AMEND: 6628
 02/27/18 AMEND: 3439(b)
 02/16/18 AMEND: 3439(b)
 02/12/18 AMEND: 6000, 6739

Title 4

07/03/18 AMEND: 10152, 10153, 10154, 10155,
 10158 (amended and renumbered),
 10159 (amended and renumbered),
 10160 (amended and renumbered).
 REPEAL: 10156, 10157
 07/02/18 ADOPT: 5700, 5710, 5711, 5720, 5721,
 5722, 5730, 5731 AMEND: 5000, 5020,
 5100
 05/30/18 AMEND: 10091.1, 10091.2, 10091.3,
 10091.4, 10091.5, 10091.6, 10091.7,
 10091.8, 10091.9, 10091.10, 10091.12,
 10091.13, 10091.14, 10091.15
 05/25/18 AMEND: 5000, 5033, 5035, 5037, 5054,
 5060, 5101, 5102, 5120, 5144, 5170,
 5191, 5212, 5230, 5240, 5250, 5540
 REPEAL: 5259
 05/17/18 AMEND: 12590
 05/15/18 AMEND: 12204, 12220, 12238, 12560
 04/30/18 AMEND: 10170.2, 10170.3, 10170.4,
 10170.5, 10170.6, 10170.7, 10170.9,
 10170.10
 04/10/18 AMEND: 10179
 04/09/18 ADOPT: 5700, 5710, 5711, 5720, 5721,
 5722, 5730, 5731 AMEND: 5000, 5020,
 5100
 03/29/18 AMEND: 7051, 7054, 7055, 7056, 7063,
 7071
 03/22/18 AMEND: 1699
 03/15/18 ADOPT: 8078.22, 8078.23, 8078.24,
 8078.25, 8078.26, 8078.27, 8078.28,
 8078.29, 8078.30, 8078.31, 8078.32,
 8078.33, 8078.34, 8078.35 AMEND:
 8070, 8071, 8072, 8073, 8074, 8076,
 8078.3 REPEAL: 8078.1, 8078.2
 03/13/18 AMEND: 5032, 5033, 5170, 5180, 5190,
 5193, 5194, 5230, 5240, 5255, 5260,
 5342, 5350, 5400, 5700
 03/05/18 AMEND: 10091.1, 10091.2, 10091.3,
 10091.4, 10091.5, 10091.6, 10091.7,
 10091.8, 10091.9, 10091.10, 10091.12,
 10091.13, 10091.14, 10091.15
 02/23/18 ADOPT: 7213, 7214, 7215, 7216, 7217,
 7218, 7219, 7220, 7221, 7222, 7223,
 7224, 7225, 7227, 7228, 7229
 02/22/18 AMEND: 10302, 10305, 10315, 10317,
 10320, 10322, 10325, 10326, 10327,

	10328, 10330, 10335, 10337 REPEAL: 10325.5		95045, 95050, 95070, 95080, 95090, 95100, 95150, 95160, 95170, 95180, 95190, 95200, 95300, 95310, 95320, 95330
02/21/18	AMEND: 1865		
02/21/18	AMEND: 1689, 1689.1		
02/15/18	AMEND: 10302, 10305, 10315, 10317, 10320, 10322, 10325, 10326, 10327, 10328, 10330, 10335, 10337	05/08/18	AMEND: 9789.31, 9789.32, 9789.39
Title 5		04/27/18	AMEND: 9789.25
07/03/18	ADOPT: 71396, 71397, 71398, 71399	03/19/18	AMEND: 344.18
06/21/18	AMEND: 19810	03/09/18	ADOPT: 3345
06/07/18	AMEND: 19810	02/27/18	ADOPT: 2320.11, 2940.11, 2940.12, 2940.13, 2940.14, 2940.15, 2940.16, 2940.17, 2940.18, 2940.19, 2943.1, 2944.1, 3428 AMEND: 2300, 2320.2, 2320.7, 2320.8, 2340.17, 2700, 2887, 2940, 2940.1, 2940.2, 2940.5, 2940.6, 2940.7, 2940.8, 2940.10, 2941, 2941.1, 2943, 2944, 2945, 2946, 2951, 3314, 3389, 3422, 3425, 5156, 8617 REPEAL: 2893
05/18/18	ADOPT: 11301, 11309, 11310, 11311, 11312 AMEND: 11300, 11316 REPEAL: 11301, 11309, 11310	02/07/18	ADOPT: 9788.1, 9788.2, 9788.3, 9788.4, 9788.5, 9788.6
05/08/18	AMEND: 75020	Title 9	
04/30/18	AMEND: 41906.5, 41906.6	06/21/18	AMEND: 4350
04/30/18	AMEND: 42909	05/17/18	AMEND: 3850, 3850.010
02/26/18	ADOPT: 71396	05/14/18	AMEND: 3560, 3560.010, 3560.020, 3705, 3726, 3735, 3750, 3755
02/20/18	ADOPT: 11526 AMEND: 11520, 11524, 11525	05/08/18	ADOPT: 4020, 4020.1
02/20/18	ADOPT: 11534.1 AMEND: 11530, 11533, 11534	03/20/18	AMEND: 7140.5
Title 8		02/12/18	ADOPT: 4020, 4020.1
05/30/18	AMEND: 1618.1	Title 10	
05/17/18	ADOPT: 11770, 11771, 11771.1, 11771.2, 11772, 11773	06/13/18	AMEND: 2498.5
05/08/18	AMEND: 31001, 32020, 32030, 32040, 32050, 32055, 32060, 32075, 32080, 32085, 32090, 32091, 32100, 32105, 32120, 32122, 32130, 32132, 32135, 32136, 32140, 32142, 32145, 32147, 32149, 32150, 32155, 32162, 32164, 32165, 32166, 32168, 32169, 32170, 32175, 32176, 32178, 32180, 32185, 32190, 32200, 32205, 32206, 32207, 32209, 32210, 32212, 32215, 32220, 32230, 32295, 32300, 32305, 32310, 32315, 32320, 32325, 32350, 32360, 32370, 32375, 32380, 32400, 32410, 32450, 32455, 32460, 32465, 32470, 32500, 32602, 32605, 32612, 32615, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32645, 32647, 32648, 32649, 32650, 32661, 32680, 32690, 32700, 32720, 32721, 32722, 32724, 32726, 32728, 32730, 32732, 32734, 32735, 32736, 32738, 32739, 32740, 32742, 32744, 32746, 32748, 32750, 32752, 32754, 32761, 32762, 32763, 32770, 32772, 32774, 32776, 32980, 32990, 32992, 32993, 32994, 32995, 32996, 32997 REPEAL: 32036, 32037, 32610, 32611, 32806, 32808, 32810, 95000, 95010, 95020, 95030, 95040,	05/31/18	AMEND: 2715, 2728.5, 2752
		05/22/18	AMEND: 2498.6
		04/20/18	ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6538
		03/27/18	AMEND: 30.60 REPEAL: 30.105
		03/26/18	AMEND: 2318.6, 2353.1, 2354
		03/26/18	AMEND: 2318.6, 2353.1
		03/22/18	AMEND: 3525, 3527, 3561, 3569, 3570, 3575, 3602, 3603, 3681
		03/20/18	AMEND: 3541
		03/07/18	AMEND: 6656, 6657, 6660, 6664
		02/23/18	AMEND: 2644.18, 2644.20
		Title 11	
		06/21/18	AMEND: 1005
		06/18/18	AMEND: 1005, 1007, 1008, 1052
		06/13/18	ADOPT: 51.32
		06/05/18	AMEND: 1005, 1007, 1008
		06/05/18	ADOPT: 49.18
		05/21/18	ADOPT: 5505, 5506, 5507, 5508, 5509, 5510, 5511, 5512, 5513, 5514, 5515, 5516, 5517, 5518, 5519, 5520, 5521, 5522
		04/11/18	ADOPT: 118.1
		04/03/18	AMEND: 51.26

04/03/18	ADOPT: 51.30	renumbered as 206.64, and 181.00
03/29/18	AMEND: 2021	renumbered as 206.66
03/13/18	AMEND: 1045	02/13/18 AMEND: 553.70
03/07/18	AMEND: 115.1	02/01/18 AMEND: 1212.5, 1218, 1239, 1264
03/07/18	AMEND: 115.2	Title 14
03/07/18	AMEND: 115.3	07/02/18 AMEND: 916.9, 936.9, 956.9
03/07/18	AMEND: 115.4	06/28/18 ADOPT: 1726, 1726.1, 1726.2, 1726.3, 1726.3.1, 1726.4, 1726.4.1, 1726.4.2, 1726.4.3, 1726.5, 1726.6, 1726.6.1, 1726.7, 1726.8, 1726.9, 1726.10
03/07/18	AMEND: 115.5	REPEAL: 1724.9
02/27/18	AMEND: 1951, 1953, 1954, 1955, 1956, 1959, 1960	06/28/18 AMEND: 18660.25, 18660.34
02/22/18	AMEND: 1009	06/28/18 AMEND: 502
02/22/18	AMEND: 1001, 1005, 1008	06/25/18 AMEND: 7.50
02/22/18	ADOPT: 80.4	06/07/18 AMEND: 1760, 1774, 1774.1, 1774.2
Title 13		05/24/18 ADOPT: 3803.1, 3803.2, 3803.3
06/12/18	ADOPT: 1231.3 AMEND: 1212.5, 1218, 1239, 1264	AMEND: 3802, 3803
05/30/18	ADOPT: 125.19 AMEND: 125.00, 125.02 REPEAL: 127.06	05/16/18 AMEND: 131
05/07/18	AMEND: 423.00	05/10/18 ADOPT: 29.11
04/26/18	AMEND: 1153	05/09/18 AMEND: 18660.5, 18660.10, 18660.21, 18660.34
04/18/18	AMEND: 1151.9.1	05/01/18 ADOPT: 650 AMEND: 703 REPEAL: 650
03/12/18	AMEND: Appendix (Article 2.0)	04/24/18 AMEND: 131
02/27/18	ADOPT: 1267.1 AMEND: 1201, 1217, 1232, 1242, 1268, 1269	04/19/18 AMEND: 4800
02/26/18	ADOPT: 227.38, 227.40, 227.42, 228.00, 228.02, 228.04, 228.06, 228.08, 228.10, 228.12, 228.14, 228.16, 228.18, 228.20, 228.22, 228.24, 228.26, 228.28 AMEND: 227.02, 227.04, 227.12, 227.14, 227.16, 227.18, 227.20, 227.22, 227.24, 227.26, 227.28, 227.30, 227.32, 227.34, 227.36, 227.38, 227.40, 227.42, 227.44, 227.46, 227.48, 227.50, 227.52, 227.54	04/02/18 AMEND: 265
02/15/18	AMEND: 170.00 renumbered as 206.00, 170.02 renumbered as 206.02, 170.04 renumbered as 206.04, 170.06 renumbered as 206.06, 170.08 renumbered as 206.08, 170.10 renumbered as 206.10, 170.12 renumbered as 206.12, 171.00 renumbered as 206.20, 171.02 renumbered as 206.22, 172.00 renumbered as 206.30, 172.05 renumbered as 206.35, 172.10 renumbered as 206.40, 173.00 renumbered as 206.50, 173.02 renumbered as 206.52, 173.04 renumbered as 206.54, 173.06 renumbered as 206.56, 173.08 renumbered as 206.58, 174.00 renumbered as 206.60, 180.00 renumbered as 206.62, 180.02	04/02/18 ADOPT: 749.9
		03/29/18 AMEND: 29.15
		03/27/18 AMEND: 1038, 1299.03, 1666.0
		03/02/18 AMEND: 120.7, 705
		03/02/18 ADOPT: 197
		02/27/18 ADOPT: 1.18, 2.05 AMEND: 1.05, 1.11, 1.61, 2.10, 2.25, 5.35, 5.41, 5.88, 7.00, 7.50, 8.00 REPEAL: 1.60
		02/27/18 AMEND: 150, 150.02, 150.03, 705
		02/22/18 ADOPT: 131
		02/20/18 AMEND: 13800
		02/07/18 AMEND: 3697, 3698, 3699
		02/06/18 AMEND: 1038
		Title 15
		06/28/18 AMEND: 3043.3
		06/14/18 AMEND: 3000, 3075.1, 3075.2, 3075.3, 3521.1, 3521.2, 3720, 3763 REPEAL: 3800, 3800.1, 3800.2, 3800.3
		06/13/18 ADOPT: 3087, 3087.1, 3087.2, 3087.3, 3087.4, 3087.5, 3087.6, 3087.7, 3087.8, 3087.9, 3087.10, 3087.11, 3087.12
		06/07/18 ADOPT: 3371.1 AMEND: 3043.7, 3044 REPEAL: 3371.1
		05/15/18 AMEND: 3000, 3030, 3190, 3269
		05/01/18 ADOPT: 2449.1, 2449.2, 2449.3, 2449.4, 2449.5, 2449.6, 2449.7, 3043.1, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3490,

	3491, 3492, 3493 AMEND: 3043, 3043.5 (renumbered to 3043.7), 3043.6 (renumbered to 3043.8), and 3044 REPEAL: 2449.2, 2449.3, 2449.5, 3042, 3043.1, 3043.2, 3043.3, 3043.4, 3043.7		5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814
04/17/18	ADOPT: 2240 REPEAL: 2240	05/15/18	AMEND: 1399.395
04/09/18	AMEND: 3016, 3315	04/20/18	AMEND: 1749
03/05/18	ADOPT: 3378.9, 3378.10 AMEND: 3000, 3023, 3043.8, 3044, 3084.9, 3269, 3335, 3337, 3341, 3341.2, 3341.3, 3341.5, 3341.6, 3341.8, 3341.9, 3375, 3375.1, 3375.2, 3376, 3376.1, 3378, 3378.1, 3378.2, 3378.3, 3378.4, 3378.5, 3378.6, 3378.7, 3378.8 REPEAL: 3334	03/19/18	AMEND: 4422
		03/14/18	AMEND: 1805.1, 1811
03/01/18	ADOPT: 3349.1, 3349.2, 3349.3, 3349.4, 3349.5, 3349.6, 3349.7, 3349.8, 3349.9 AMEND: 3349	03/05/18	AMEND: 2070, 2071
02/07/18	ADOPT: 3999.24	03/01/18	AMEND: 9.1, 12, 12.1, 12.5, 15.1, 16, 19, 20, 43, 45, 87.9
02/05/18	AMEND: 1006, 1062		
02/01/18	ADOPT: 3087, 3087.1, 3087.2, 3087.3, 3087.4, 3087.5, 3087.6, 3087.7, 3087.8, 3087.9, 3087.10, 3087.11, 3087.12	Title 17	
Title 16		06/07/18	AMEND: 30400, 30413, 30417, 30418, 30419, 30420, 30427.2 (re-numbered to 30427), 30435, 30442, 30443, 30447, 30461, 30467
06/18/18	AMEND: 1735.2	06/04/18	ADOPT: 40100, 40101, 40102, 40115, 40116, 40118, 40126, 40128, 40129, 40130, 40131, 40133, 40135, 40137, 40150, 40155, 40156, 40159, 40162, 40165, 40167, 40169, 40175, 40177, 40178, 40180, 40182, 40200, 40205, 40220, 40222, 40223, 40225, 40232, 40234, 40236, 40238, 40240, 40242, 40250, 40252, 40254, 40256, 40258, 40260, 40262, 40264, 40266, 40268, 40270, 40272, 40275, 40277, 40280, 40282, 40290, 40292, 40300, 40305, 40306, 40310, 40400, 40401, 40403, 40405, 40406, 40408, 40410, 40411, 40412, 40415, 40500, 40510, 40512, 40513, 40515, 40517, 40525, 40550, 40601
06/14/18	REPEAL: 1399.620, 1399.621, 1399.622, 1399.623	05/30/18	AMEND: 95835, 95911
06/07/18	AMEND: 321, 364	05/23/18	ADOPT: 51101, 51102, 51103, 51104, 51105, 51106
06/04/18	ADOPT: 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5425, 5426, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5600, 5601, 5602, 5603, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804,	05/07/18	ADOPT: 98201, 98202, 98203
		04/20/18	AMEND: 6000, 6025, 6035, 6040, 6045, 6050, 6051, 6055, 6060, 6065, 6070, 6075 REPEAL: 6015, 6020
		04/13/18	ADOPT: 40127, 40132, 40190, 40191, 40192, 40194, 40196
		03/15/18	AMEND: 30145, 30145.1, 30205, 30231, 30275, 30278.1, 30309, 30310, 30311, 30314, 30336.8, 30408, 30409, 30456.8, 30535
		Title 18	
		07/02/18	AMEND: 283
		06/18/18	AMEND: 51
		05/08/18	ADOPT: 30100, 30101, 30102, 30201, 30202, 30203, 30204, 30205, 30301, 30302, 30303, 30304, 30305, 30401, 30402, 30403, 30501, 30502, 30601, 30602, 30603, 30604, 30605, 30606, 30701, 30702, 30703, 30704, 30705,

	15200, 15210, 15240, 15241, 15242, 15250, 15260, 15280, 15290, 15320, 15330, Appendix A, Appendix B, Appendix C	Title MPP	
06/07/18	AMEND: 27001	06/26/18	AMEND: 41-440, 42-711, 42-716, 42-717, 44-207 REPEAL:
05/09/18	AMEND: 25705	06/25/18	AMEND: 44-316, 44-350
04/06/18	AMEND: 25705	06/12/18	AMEND: 22-001, 22-003, 22-004, 22-009, 22-045, 22-050, 22-051, 22-054, 22-062, 22-065, 22-069, 22-071, 22-072, 22-073, 22-085
02/05/18	AMEND: 25705		
02/01/18	AMEND: 27000		

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EXHIBIT 52

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

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

SECTIONS AFFECTED: §§5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5007.1, 5008, 5009, 5010, 5010.1, 5010.2, 5010.3, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5052.1, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5303.1, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5402, 5403, 5403.1, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5425, 5426, 5427, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507, 5600, 5601, 5602, 5603, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814, 5815, 5900, 5901, 5902, 5903 and 5904.

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.

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 streamlined 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.

REQUIREMENTS APPLICABLE TO ALL APPLICANTS AND LICENSEES

STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS

With the passage of the MAUCRSA, the Bureau was established to create a comprehensive and coherent regulatory framework for an established industry that had not been comprehensively regulated by the state. While the MAUCRSA provides guidance on the larger macro issues, much of the implementation specifics and clarification of terms were left to the Bureau. There are many terms and phrases that will apply to all Bureau applicants and licensees regardless of license type. These proposed regulations will 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 other conditions for compliance with the MAUCRSA.

First, the proposed regulations seek to clarify the applicable meaning of key statutory terms and other terms used within the regulations. These terms include those relevant to requirements of licensees, such as “cannabis waste,” “limited-access area,” “medicinal cannabis patient,” and “retail area.”

Second, the proposed regulations clarify what documents and information are required to complete an application for all license types issued by the Bureau. 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 an annual license including, but not limited to: evidence of the applicant’s legal right to occupy the proposed premises for their requested commercial cannabis activity; proof of a labor peace agreement, if applicable; proof of fingerprint submission to the Department of Justice; valid seller’s permit number; proof of a bond;

proof of insurance (for distributors); operating procedures; and a premises diagram. The proposed regulations will specify what must be submitted to the Bureau related to these items.

The regulations will identify additional information required for an annual license such as proof that the premises is exempt from or in compliance with the California Environmental Quality Act (CEQA). The proposed regulations would specify what documents may demonstrate proof and would provide 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 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 regulations will also provide that the Bureau may request additional information from the applicant so that the Bureau will have all of the necessary information to appropriately evaluate the application for licensure. The regulations 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.

The proposed regulations would also clarify special terms, prohibitions, and requirements. Specifically, the proposed regulations include a prohibition that no person holding office in, or employed by, any agency of the State of California or any of its political subdivisions charged with enforcement of the Act, may have any financial interest in a related commercial cannabis business. Without a clear prohibition, both State and local agency staff tasked with the enforcement of the Act could legally own or hold an interest in commercial cannabis business creating a potential conflict of interest. This proposed regulation is necessary to ensure that those tasked with enforcing the Act and criminal laws execute their duties and obligations in a fair and objective manner on behalf of the State of California and any of its political subdivisions.

Third, the proposed regulations provide clarification of special terms, prohibitions, requirements, or conditions set forth in the Act that apply to all license types. Specifically, the regulations contain a provision that a license may be denied for a prior conviction that is substantially related to the qualifications, function, or duties of the business for which licensure is sought. The regulations provide further criteria for the Bureau to consider in determining whether or not an applicant, that has been convicted of a crime that is substantially related to the qualifications, functions, or duties, of the business for which licensure is sought, has been sufficiently rehabilitated and is therefore suitable for licensure. These criteria include the nature of the offense; a person's criminal record as a whole; compliance with the terms set by the court; any act that would allow discipline of a license; whether the activity would have been legal if committed at the time of application; dismissal of a conviction; certificate of rehabilitation; and any other evidence submitted. This allows the Bureau to review the applicant's criminal history and rehabilitation fully to ensure applicants are appropriate for licensure, while not barring licensure due to a conviction without considering other mitigating factors.

The proposed regulations also provide for disaster relief, allowing licenses to reasonably conduct the commercial cannabis activities under emergency situations and conditions

limiting or preventing strict compliance with certain requirements. The proposed regulations also provide for the requirements for record keeping, entry into the track and trace system, security, advertising, and returns and destruction, and apply to all Bureau licensees for consistency purposes. These requirements will assist in preventing theft and diversion into the illegal or unregulated market of cannabis goods, and notifications to the Bureau and law enforcement for inventory discrepancies. The regulations elaborate on requirements related to advertising to assure that all advertising is tailored to appropriately-aged customers. The regulations also have requirements for destruction of cannabis goods to ensure that the products that fail testing, or are discarded, do not end up in the illegal or unregulated market, or are accessible to children, to protect the public safety. As the protection of the public is the highest priority for the licensing authorities, the purpose of these proposed regulatory provisions is to provide a framework within the industry that safeguards public health, safety, and welfare while allowing commercial cannabis businesses to engage in the marketplace.

The regulations also provide that a licensee is responsible for the acts of an agent or employee to ensure that licensees do not violate the MAUCRSA or its implementing regulations by allowing others to act for them. Grounds for disciplinary action against a licensee, in addition to those in the MAUCRSA, are included in the Bureau's regulations to prevent changes to the premises without Bureau approval, denying access to the premises for inspection, and impeding investigations.

DISTRIBUTORS

STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS

Distributors play a pivotal role in the commercial cannabis supply chain. Ensuring a seamless transition from the cultivation and manufacturing of the cannabis goods through the distribution process is key to a well-regulated market. Prior to MAUCRSA, there was no state regulatory process for the operation of commercial cannabis distributors. The proposed distributor regulations are designed with three main goals: (1) to ensure that commercial cannabis goods are properly stored, handled, packaged, and tested; (2) to ensure commercial cannabis goods are safely and securely transported between licensees; and (3) to ensure distributors keep and maintain records that are adequate to effectively track and trace commercial cannabis goods, thereby helping to prevent entry of untested commercial cannabis goods into the legal market, and diversion of commercial cannabis goods into the illegal or unregulated market. With these goals in mind, the overall purpose of the regulations is to identify the minimum requirements for holding a state distributor license.

The proposed regulations are designed to ensure that commercial cannabis goods are properly stored, handled, packaged, and tested. The proposed regulations explicitly limit the distributor to storing and distributing cannabis goods, cannabis accessories, licensees' branded merchandise, and promotional materials. This is necessary because of the unique circumstances of cannabis being legal to distribute under California law but not federal law. Because cannabis is still illegal to distribute under federal law, the Bureau and law enforcement must be extra diligent to ensure that cannabis goods are properly identified when conducting compliance checks or searches of cannabis goods either at the premises or

in the transport vehicle. It is important to ensure that a distributor is only storing or transporting cannabis goods that came from other licensees and not from the unregulated market. Limiting the items that can be distributed and stored on the premises to cannabis goods and related items, allows for more efficient tracking of cannabis goods by the licensee and by the licensing authorities. Product checks, or searches can be done in a timely fashion so that the distributor is not delayed in moving the goods through the supply chain.

The proposed regulations would explicitly prohibit a distributor from storing live plants. This is necessary because the storing of live plants for a period of time requires the plants to be maintained through watering and potentially through light or sun exposure. This is a problem because the maintenance a plant needs to stay alive is an activity related to cultivation for which only microbusinesses and cultivators licensed by the CDFA are allowed to do. Therefore, the regulations would prohibit a distributor from storing live plants.

The ability of a distributor to package, repackage, and label commercial cannabis goods for a cultivator licensee will allow more efficient and easier flow of commercial cannabis goods through the distribution chain. However, the proposed regulations prohibit a distributor from accepting commercial cannabis goods that have not already been packaged by the manufacturer that manufactured the products. The Bureau believes this provision is necessary to ensure the quality and safety of manufactured commercial cannabis goods. It ensures that packaging takes place in an environment most conducive to good manufacturing practices for packaging. The proposed regulations will also clarify the proper procedures for sampling commercial cannabis goods for testing and clarifies the quality assurance and testing standards applicable to distributors. Because laboratory testing is one of the integral parts of quality assurance for commercial cannabis goods, it is critical to the industry that the regulations be clear and concise. Therefore, the Bureau proposes that distributors witness sampling in person and that it be recorded on video. These requirements would allow the Bureau to verify the sampling process. This requirement helps to prevent situations of nonexistent or improper sampling, intentional tampering with commercial cannabis goods during sampling, and helps to resolve any disputes between licensees that may arise regarding procedures used to sample.

The proposed regulations also ensure that commercial cannabis goods are safely and securely transported between licensees. For example, limiting transport to roadways and requiring that commercial cannabis goods not be visible are requirements that were selected by the Bureau to mitigate intersections with federal law and regulation and will reduce the probability of theft of shipments. Securely locking the product in a box within the interior of the vehicle, requiring alarm systems, and not permitting the vehicle to be left unattended in a residential neighborhood is required in order to discourage theft and other crimes that may threaten public safety. Distributors may not transport any goods except cannabis goods, cannabis accessories, branded merchandise, and promotional materials. However, a distributor may transport commercial cannabis goods from multiple licensees at the same time. The minimum age for drivers and passengers of licensed transport vehicles is 21 years old. The legal age for a person without a physician's recommendation to possess commercial cannabis goods is 21. This requirement helps to ensure that persons who have dominion and control over commercial cannabis goods during transport meet that

age requirement. This provision assists in limiting children's access to commercial cannabis goods. Permitting only a licensee's employees or security personnel to be present during transport discourages diversion and theft and provides the Bureau with the ability to take appropriate action against a licensee for improper activity or malfeasance during transport.

The transport of commercial cannabis goods will require thorough and proper record keeping. A distribution licensee will be required to keep and maintain a load specific shipping manifest, business records, and maintain full integration with the track and trace database. The data includes information about the licensee from whom the goods were received, the type and amount of goods received, the party who holds title to the goods, and the unique identifiers or lot number of the goods. These requirements ensure the commercial cannabis goods stay within the regulated market, preventing untested and potentially unsafe commercial cannabis goods from entering into the system or product being diverted into illegal or unregulated markets. These proposed regulations are necessary to ensure commercial cannabis goods stay within the regulated market. By clearly stating the information distribution licensees are required to have on their shipping manifest, the regulations allow for uniformity of records across distribution licensees and increase the speed and effectiveness of Bureau enforcement investigations.

Lastly, in recognition of the MAUCRSA requirement that only distributors are allowed to transport cannabis goods, the Bureau has created a distribution transport only license. This license allows the holder to transport goods between licensees but does not allow them to conduct the quality assurance review or arrange for laboratory testing. This is necessary because many licensees, especially cultivators, are in remote geographic locations. The distributor transport only license provides flexibility to those licensees that are difficult to reach by allowing them to obtain a distributor transport only license and transport their cannabis to manufacturers or distributors without having to pay a distributor to come to them, which could be quite costly depending on where they are located. This also allows licensees that simply want to transport cannabis goods, but do not want to store them, conduct quality assurance review, or arrange for laboratory testing, to participate in the cannabis marketplace. Because of the importance of quality assurance and laboratory testing, the Bureau has limited the distributor transport only licensee to transporting between cultivators, manufacturers, and microbusinesses with the exception that a distributor transport only licensee may transport immature live plants and seeds from a nursery to a retailer. This exemption is necessary because immature live plants and seeds are not required to be tested and therefore do not need to go through the standard distribution process but must still have a way of reaching the retailer for sale to consumers.

RETAILERS

STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS

Retailers provide commercial cannabis goods to customers who are the end users of the product. Prior to the MAUCRSA, there was no state regulatory process for the operation of a commercial cannabis retailer. Under the MAUCRSA, the Bureau is responsible for establishing the rules for the operation of commercial cannabis retailers. Without the

regulations developed by the Bureau, there is no set of rules that would apply to all commercial cannabis retailers across the state. The overall purpose of the proposed regulations is to lay out the minimum requirements for holding a state license to operate a commercial cannabis retail premises and are necessary as retailers engage directly with the consumer and the public. The proposed retailer regulations are designed with three main goals.

First, the regulations are designed to ensure that retailers follow the MAUCRSA supply chain requirements. The regulations are designed to require that retailers procure their commercial cannabis goods from licensed distributors. Additionally, the proposed regulations require that retailers use the track and trace system to monitor activity. The proposed regulations will also require that the retailers ensure that they only provide commercial cannabis goods to individuals who are legally allowed to purchase them. This is achieved by requiring that all potential customers provide the retailer with identification and a physician's recommendation (if required). The proposed regulations also ensure that customers will have access to commercial cannabis goods by setting requirements for delivery.

Second, the regulations are designed to protect public health and safety. The proposed regulations require that retailers only sell commercial cannabis goods that have undergone required testing procedures. The proposed regulations also prohibit a retailer from packaging commercial cannabis goods on-site, which leads to a reduction in the risk of contamination or adulteration after the mandated state testing process. The regulations prohibit the consumption of commercial cannabis goods by delivery employees while they are performing deliveries. The proposed regulations also require that commercial cannabis goods be stored in a manner to prevent spoilage or degradation. The proposed regulations prevent a retailer from reselling any commercial cannabis goods that have been returned by a customer. Additionally, the proposed regulations require that commercial cannabis goods be placed in a resealable child-resistant opaque exit package before leaving the premises or providing the goods to a delivery customer. The exit packaging will make it more difficult for young children to gain access to the commercial cannabis goods. Limits on daily sales to an individual customer reflect the limits under the Health and Safety Code so that a retailer does not allow a person to purchase more than the amount he or she can legally possess.

Third, the proposed regulations are designed to limit the risk of diversion. The proposed regulations have strict security requirements regarding who may access the retail premises or delivery vehicles. The proposed regulations limit the amount and placement of commercial cannabis goods used for display. The proposed regulations require that retailers only be open for sales between the hours of 6:00 a.m. and 10:00 p.m. in order to reduce the increased risk of robbery and other crimes and comply with certain security requirements when not open for business. The proposed regulations impose rules on who can perform deliveries, the time during which deliveries can be made, and how deliveries are to be performed to reduce risk of crime. Under the proposed regulations, retailers are required to closely monitor their inventory of commercial cannabis goods by doing inventory

reconciliation activities and meeting certain recordkeeping requirements. The proposed regulations also allow for retailer to retailer transfer, under the same ownership, and by a licensed distributor.

MICROBUSINESSES

STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS

Microbusinesses enable licensees to engage in multiple commercial cannabis activities under one license: cultivate commercial cannabis on an area less than 10,000 square feet; act as a licensed distributor; manufacture commercial cannabis as a Level 1 manufacturer; and/or sell commercial cannabis as a retailer. Prior to MAUCRSA, there was no state regulatory process for the operation of a vertically integrated microbusiness. Under the MAUCRSA, the Bureau is responsible for establishing rules for the operation of microbusinesses. Without the regulations developed by the Bureau, there is no set of rules that would apply to all vertically-integrated microbusinesses operating statewide. The overall purpose of the proposed regulations is to lay out the minimum requirements for holding a state license to operate a microbusiness. The proposed microbusiness regulations are designed with two main goals: (1) clarifying what documents and information is required to complete an application for a microbusiness license; and (2) ensuring microbusiness follow the MAUCRSA supply chain requirements for all commercial cannabis activities they will be engaging in.

Because MAUCRSA is silent as to the license application requirements for microbusinesses, 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. MAUCRSA does not specify how many commercial cannabis activities a microbusiness must conduct to be eligible for licensure; 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 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 as part of an application for microbusiness licensure.

Recognizing that each commercial cannabis activity has distinct operational requirements, 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 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 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. Although bound to the Bureau's general recordkeeping requirements, manufacturing and cultivating activities have distinct records tailored to the nature of their operations. These requirements will assist in preventing theft, diversion into the illegal or unregulated market of commercial cannabis goods and tracking of movement of commercial cannabis goods. The proposed recordkeeping provisions for microbusinesses assure that all licensees conducting the same commercial cannabis activities maintain similar records for Bureau review and inspection.

CANNABIS EVENTS

STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS

Under MAUCRSA, state temporary event licenses may be issued, authorizing onsite commercial 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. Prior to MAUCRSA, there was no state regulatory process for conducting temporary cannabis events. Under the MAUCRSA, the Bureau is responsible for establishing rules for the operation of temporary cannabis events at a county fair or district agricultural association. Without the regulations developed by the Bureau, there is no set of rules that would apply to all temporary cannabis events statewide. The overall purpose of the proposed regulations is to lay out the minimum requirements for the operation of a temporary cannabis event, licensed by the Bureau.

First, the proposed regulations would specify the application requirements for individuals or entities interested in holding a temporary cannabis event. Anyone interested in holding a temporary cannabis event must first apply to the Bureau as a temporary cannabis event organizer; this ensures that only licensees that are pre-approved by the Bureau are applying for temporary cannabis event licenses. It also reduces the amount of information the Bureau will need to collect from an applicant for each temporary cannabis event. The proposed regulations would 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. This assures that the Bureau has adequate time to review information submitted by the applicant, and collect additional information, as needed. The proposed regulations also provide that a temporary cannabis license shall be valid for no more than 4 consecutive days, providing clarity to applicants regarding the temporal constraints of temporary cannabis event licensure. The proposed regulations would specify what must be provided with the application, including a diagram of the layout of the event with a detailed description of where commercial cannabis sales and consumption will occur. Similarly, applicants must provide the Bureau and a list of all licensees that will be providing onsite sales of commercial cannabis goods at the event at least 72 hours before the event. The proposed regulations would also specify that the cannabis event organizer 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. These requirements ensure that the Bureau and its enforcement staff have all information necessary to effectively evaluate whether licensees are operating in a manner consistent with MAUCRSA and its implementing regulations.

Further, the proposed regulations would specify certain operational requirements that must be met by temporary cannabis events to ensure public health and safety for event attendees. Specifically, the proposed regulations require that all temporary cannabis event sales of commercial cannabis only be performed by a licensed retailer or microbusiness authorized to sell commercial cannabis to retail customers and all commercial cannabis goods to be sold at the event must be transported to the event by a licensed distributor. The retail sales must be conducted within their assigned areas, and prohibits mobile sales. The proposed regulations would further clarify that commercial 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.

TESTING LABORATORIES

STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS

The MAUCRSA mandates that protection of the public be the highest priority for all licensing authorities. In keeping with that, the MAUCRSA requires that the Bureau develop procedures for ensuring that all cannabis goods are tested prior to distributing them to a retailer. The MAUCRSA requires that all cannabis goods be tested by testing laboratories licensed by the Bureau. Through the proposed regulations, the Bureau aims to ensure the cannabis goods sold to consumers are safe for human consumption. The Bureau also aims to ensure consumers receive accurate information regarding the cannabis goods they consume.

First, the MAUCRSA requires the Bureau to develop regulations for testing the chemical profile of cannabis, including THC, THCA, CBD, CBDA, terpenes, CBG, CBN and any other compounds or contaminants as determined by the Bureau. Additionally, the MAUCRSA mandates the Bureau to establish levels for contaminant including residual solvents, foreign material, and microbiological impurities. Contamination may occur during various stages of the cultivation, harvest, extraction, processing, and packaging. Some of the types of contamination that can make cannabis goods unsafe includes residual pesticides, residual solvents and processing chemicals, microbiological impurities, heavy metals, and foreign material. These proposed regulations aim to establish action levels that the Bureau considers are 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 consumer will suffer material impairment of health from exposure to contaminants in cannabis goods. As such, these contaminants are discussed in greater detail:

Chemicals

During the cultivation and manufacturing process, injurious chemicals can contaminate cannabis goods. For instance, solvents are used to extract, in concentrated amounts, cannabinoids from dried flower. Some of the chemicals used as solvents may linger after the processing is finished. When present in products intended for human consumption, excessive amounts of these residual solvents and processing chemicals may pose risks to human health.

Microbiological impurities

Some *Escherichia coli* (*E. coli*) strains can cause human disease. One strain produces a toxin called Shiga toxin, which can result in serious illness. Because of the low infectious dose required for disease causation, the Bureau proposes there be zero tolerance for the presence of Shiga toxin-producing *E. coli* in cannabis goods.

In addition, the presence of *Salmonella* in cannabis has been documented and, in 1981, resulted in a multistate outbreak. It has also been associated with gastrointestinal disease in both healthy and in immunocompromised populations. The Bureau proposes testing for all *Salmonella* strains.

There have been a number of cases involving immunocompromised people who have become ill, or died, from inhaling *Aspergillus*. *Aspergillus* is a fungus that can cause serious health problems. Certain *Aspergillus* strains can cause a variety of immune-reaction lung disorders, ranging from asthma, allergic bronchopulmonary aspergillosis, and hypersensitivity pneumonitis to invasive systemic fungal infections. The Bureau proposes testing for this fungus.

Mycotoxins

Mycotoxins are toxic substances produced by certain fungi that can grow on human food and animal feed grain. Human exposure to mycotoxins, through ingestion, inhalation, and dermal contact, has been associated with severe human health impacts that include necrosis, cirrhosis, and carcinomas. The Bureau proposes requiring testing for certain mycotoxins.

Foreign material

Medical cannabis products may be injurious to health if they consist in whole or in part of any filthy, putrid, or decomposed substances or is otherwise contaminated by any added poisonous or added deleterious substance. This may occur if the cannabis goods have been stored, prepared, or packed under unsanitary conditions. The Bureau proposes requiring testing for foreign material.

Heavy metals

Cannabis plants are known to uptake metals from contaminated growth media (for example, soil), which increases the risk of adverse health effects associated with the consumption of cannabis goods. For example, exposure to lead may cause neurological, reproductive, developmental, immune, cardiovascular, and renal health effects. And mercury shows toxicological effects such as neurological, corrosive, hematopoietic, and

renal effects as well as cutaneous disease (acrodynia). The Bureau proposes requiring testing for heavy metals.

Second, the proposed regulations set minimum standards for testing laboratories. The MAUCRSA requires that testing laboratories conduct in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling and using verified methods. There are inherent challenges to regulating an industry that has not been federally regulated and has only been newly regulated in other states. With regard to cannabis testing laboratories, one challenge the Bureau faced when developing these proposed regulations was lack of generally accepted verified methods for the testing of cannabis goods. Therefore, it was imperative the Bureau include regulations regarding verification of testing methods. Additionally, because ISO/IEC, the joint technical committee that establishes the accreditation requirements that the testing laboratories are subject to, is a private organization not under the control of the Bureau, nor subject to public-record disclosure laws, it was necessary for the Bureau to develop its own minimum standards for laboratories. These standards aim to ensure that the laboratories that test cannabis goods before retail sale adhere to laboratory practices that result in accurate information being provided to consumers about the contents of the cannabis goods. These proposed standards would enable the Bureau to ensure that laboratories maintain high operational standards and conduct valid tests. These testing laboratory standards include ones for sampling procedures, test method validation, quality assurance, and laboratory personnel qualifications and are discussed in greater detail:

Sampling

Proper sampling collection may be far more consequential than laboratory measurement errors. If a sample of cannabis goods is improperly obtained, the measurement data that is gathered through analyzing the sample puts the measurement data it produces into question. Proper sampling is therefore critical to obtaining relevant and valid data.

In these regulations, the Bureau proposes fairly detailed minimum sampling requirements. These requirements include what must go into a testing laboratory's sampling protocol and how samples are to be stored.

Validation of Test Methods

An analytical procedure is developed to test a defined characteristic of a substance against established acceptance criteria for that characteristic. This is called a "method," or a "test." To ensure the method used results in reliable, valid data, the method must be "validated" before it is used to produce usable results. Method validation is a process by which a method is tested to ensure it is producing valid results.

Because it is only fairly recently that laboratories begun to test cannabis goods for potency and contamination, and because the federal government does not regulate this industry, there are few validated methods for the testing of cannabis goods. Therefore, laboratories will have to validate their own methods for the testing of cannabis goods.

The laboratory's analytical instrumentation and methodology should be selected based on the intended purpose and scope of the analytical method. Parameters that may be evaluated during method development are specificity, linearity, limits of detection (LODs) and limits of quantitation (LOQs), range, accuracy, and precision.

These proposed regulations set out what the Bureau considers to be acceptable ways to validate a "nonstandard" method, which will be used for testing cannabis goods. In developing these proposed method validation regulations, the Bureau looked to guidelines and other resources used in other industries.

Quality Assurance

Quality assurance is a set of operating principles that enable laboratories to produce defensible data of known accuracy and precision. These operating principles form a laboratory quality assurance program and are documented in a laboratory's quality assurance manual. These regulations propose the minimum components of a quality assurance program and quality assurance manual.

The Bureau's proposed quality assurance program includes requirements for quality control samples. The Bureau proposes to require the use of laboratory quality control samples including method blank samples, laboratory replicate samples, and matrix spike samples. The proposed regulations also set out how to calculate the limit of detection and limit of quantitation. They also specify recordkeeping requirements and require an annual internal audit. Together these proposed regulations will assist in providing accurate testing and guidance for how to ensure accurate testing.

The Bureau is also proposing required proficiency testing. Proficiency testing is an objective assessment of a laboratory's ability to perform analyses. The Bureau proposes requiring testing laboratory licensees participate in a proficiency testing program provided by an organization that operates in conformance with the requirements of ISO/IEC 17043 so that every analyst and every method used by the laboratory is eventually tested. This is an important check on the ability of laboratories to provide accurate data.

Personnel

The education and experience level of the personnel of a testing laboratory is very important. Many of the required tests in these proposed regulations are complex and must be done by persons with specialized training. Therefore, the Bureau proposes in these regulations to require testing laboratories licensed by the Bureau to have a laboratory supervisor or management staff. It is also proposed that any employee who performs analytical tasks meet some minimum qualifications. This is done to ensure laboratories are run by competent and trained persons, to ensure accurate testing, and to ensure public safety.

ENFORCEMENT

STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS

Under the Act, each licensing authority has the power to create, issue, deny, renew, suspend, revoke, place on probation with terms and conditions, or otherwise discipline a

licensee for any acts or omissions constituting grounds for disciplinary action. The Act does not provide a comprehensive list of grounds for disciplinary action, and does not provide for specific enforcement actions falling short of discipline, or a specific process to challenge an enforcement action that is not appealable to the Cannabis Control Appeals Board, under Business and Professions Code section 26040 et seq. While the Act provides guidance on the larger macro issues, much of the implementation specifics and clarification of terms was left to the Bureau. Under the Act, the Bureau is responsible for establishing the regulatory framework for disciplinary action for certain licensed and unlicensed commercial cannabis activities. Without the regulations developed by the Bureau, there is no set of rules that would apply to Bureau licensees statewide. The overall purpose of the proposed regulations is to lay out strong and fair enforcement provisions, to ensure that there is a balance between allowing for the feasible operation of cannabis businesses, while deterring illegal and criminal activities.

Moreover, the proposed regulations will establish a framework for which the Bureau will initiate or undertake enforcement action, including disciplinary action. Enforcement of the Act is essential to carrying out the duties of the Bureau in ensuring the protection of the public as the highest priority. All enforcement actions, and disciplinary actions, are taken with this statutory mandate in mind. These proposed regulations will provide the requirements and procedures necessary to ensure that the Bureau is engaging in actions that are necessary and fair. It is important to ensure that the Bureau's enforcement actions will not be compromised, while affording licensees their rights to due process. To the extent necessary, these proposed regulations will provide the Bureau's inspection process, and will clarify the Bureau's right to access information and materials pursuant to the Act. The proposed regulations will also provide an overview of the process for issuing citations and monetary fines, as a method of ensuring licensee compliance with the Act and its implementing regulations, short of taking disciplinary action. The proposed regulations will also enable the Bureau to provide notices of compliance, that are intended to advise licensees on abatement of violations that do not rise to the level of citation issuance or disciplinary action. Under the proposed regulations, the Bureau will also have the authority to issue emergency decisions and orders, in circumstances where immediate action is necessary in order to safeguard public health, safety, and welfare. The proposed regulations provide the procedures for temporary, interim relief, before and after issuance of such an emergency decision and order.

The enforcement actions and prohibited acts under these proposed regulations will ensure a safe and efficient market for commercial cannabis activity.

The proposed regulations also provide clarity regarding certain activities that are prohibited on the licensed premises. This will aid licensees, applicants, and the public to mitigate the risk for possible criminal activities. The current lack of a banking system for commercial cannabis has resulted in a historically cash-heavy industry that may be subject to a higher risk of criminal activity than other industries. The proposed regulations provide clarity to mitigate such potential risks, thereby ensuring protection of the licensee and public to the extent possible.

OTHER PROVISIONS

STATEMENT OF PURPOSE, PROBLEM, RATIONALE, AND BENEFITS

The Act, under Revenue and Taxation Code section 34019, subsection (b), provides that a sum of ten million dollars (\$10,000,000), will be disbursed annually to public universities in California, beginning with the 2018-2019 fiscal year until the 2028-2029 fiscal year, to research and evaluate the implementation and effect of the Act. While the Act provides the Bureau the authority to select the universities that will be eligible for this disbursement, much of the implementation specifics was left to the Bureau. Specifically, the Act does not provide the process for application and selection, or the specific criteria for selecting universities to receive the enumerated funds. Accordingly, the purpose of the proposed regulations is to implement, interpret, and make specific Revenue and Taxation Code section 34019, subsection (b), and the duty of the Bureau to make selections for funding on research related to cannabis use, so that the public will have access to useful knowledge on a new industry and product that has not widely been researched or evaluated.

The research contemplated under the Revenue and Taxation Code, section 34019, and this division, will focus on the efficacy of the rules and regulations carried out under the Act, as well as the public health and safety of cannabis use, and the economic impacts of cannabis use and licensing. The proposed regulations will detail the selection criteria and process by which the Bureau will select eligible universities for funding. It will provide for the process and requirements for funding, which is necessary to ensure the funds will be properly allocated and efficiently used to satisfy statutory mandates. The proposed regulations will also require selected universities to satisfy performance reporting standards and provide annual reports to further ensure that research is aligned with the statutory provisions, while providing the public up-to-date knowledge on this developing industry.

SPECIFIC PURPOSE, NECESSITY, AND RATIONALE FOR EACH ADOPTION

The Bureau proposes to add sections §§ 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5007.1, 5008, 5009, 5010, 5010.1, 5010.2, 5010.3, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5052.1, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5303.1, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5402, 5403, 5403.1, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5425, 5426, 5427, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507, 5600, 5601, 5602, 5603, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814, 5815, 5900, 5901, 5902, 5903 and 5904 of Division 42 of Title 16 of the California Code of Regulations, as follows.

§ 5000. Definitions

Subsection (a) defines “Act” as the Medicinal and Adult-use Cannabis Regulation and Safety Act. This is necessary because “Act” is used throughout the regulations.

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licensees in lowering their costs by not requiring security measures in situations where they are not needed.

This section is necessary to ensure that cannabis goods are properly handled throughout the supply chain, so they can safely and securely reach the consumer without diversion, adulteration, or other contamination. A distributor transport only license allows for efficiency in the distribution of cannabis goods. These licensees that specifically only engage in transport only services, will be relieved of the obligations and requirements for testing and quality assurance. To ensure that the limitations are strictly followed, distributor transport only licensees are prohibited from certain activities, such as transporting to a retailer, unless it is specific cannabis goods not subject to testing. These restrictions are necessary to ensure that cannabis goods that have not been tested do not end up in the possession of an ultimate end consumer.

§ 5400. Access to Retailer Premises

This proposed regulation clarifies who may gain access to the licensed premises of a retailer. The purpose of this proposed regulation is to limit access to the licensed premises of a retailer to authorized individuals and to reduce or eliminate the exposure of minors to cannabis.

Business and Professions Code section 26140, subdivision (a) prohibits A-designated licensees from, selling cannabis goods to persons under 21 years of age, allowing persons under 21 years of age onto the licensed premises, or employing persons under the age of 21 years of age. Under subdivision (c) of section 26140, M- designated licensees may allow individuals who are at least 18 years of age and possess a valid physician's recommendation onto the premises. Under this proposed section, M-designated licensees may also sell cannabis goods to individuals who are at least 18 years of age and possess a valid physician's recommendation.

Consistent with Business and Professions Code section 26140, proposed subsection (a) of this proposed regulation restates the requirement that persons under the age of 21 should not be allowed onto the licensed premises of a retail licensee for clarity and convenience.

Subsection (b) of the proposed regulation restates the requirement that M-designated licensees may allow individuals who are at least 18 years of age who have a valid physician's recommendation for medicinal cannabis for clarity and convenience.

Subsection (c) of the proposed regulation provides an exception to subsection (a) for M-designated licensees. Under subsection (c) of the proposed regulation, a retailer who holds both an M-designated license and an A-designated license may allow individuals who are at least 18 years old and possess a valid physician's recommendation to access the licensed premises and is included for clarity and convenience.

This proposed regulation is necessary because it clarifies who a licensed retailer may allow to access the licensed premises as prescribed by Business and Professions Code section 26140. This clarity is important to limit access of cannabis goods by a minor or

unauthorized individual and is in furtherance of the Bureau's statutory mandate to ensure protection of the public as the highest priority.

§ 5401. [Reserved]

§ 5402. Customer Access to the Retail Area

This proposed regulation specifies who may access the retail areas of a retailer's licensed premises and provides certain requirements for retail areas accessible by customers. Business and Professions Code section 26070, subdivision (j) requires that a licensed retailer implement security measures that are reasonably designed to prevent unauthorized entrance into areas containing cannabis goods and to prevent theft of cannabis goods from the premises. Subdivision (j)(1) of Section 26070 requires retailers to prohibit individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the retailer.

In furtherance of these statutory requirements, subsection (a) of the proposed regulation clarifies that the retailer must use to confirm the age of a customer before allowing the customer into the retail area. Under this proposed subsection, a retailer would be required to inspect and confirm the customer's identification as specified in proposed section 5402.1. A retailer may only allow a customer into the retail area after properly confirming the customer's identification, and if necessary, the customer's physician's recommendation. The purpose of this proposed subsection is to protect children and minors by assuring that only appropriately aged customers enter the retail area to purchase cannabis goods. This proposed section will also ensure that retailers are properly confirming the age of customers before allowing the customers to enter the retail area.

Subsection (b) of the proposed regulation requires that an employee of the licensee be present in the retail area any time there are customers in the retail area. The purpose of this proposed subsection is to decrease the risk of theft or diversion; unsupervised access to the retail floor area may result in the licensee losing control over the premises, which may lead to an increased risk of theft, diversion, or other unauthorized activity.

Subsection (c) of the proposed regulation requires that all sales of cannabis goods, except for sales through delivery, take place in the retail area. The purpose of this proposed subsection is to reduce the risk of theft or loss. By requiring the sale of cannabis goods to only take place in designated areas, the potential for a licensee losing control over their licensed premises is diminished. The retail area is the only area in which cannabis goods for sale may be displayed. By requiring all sales to be conducted in the controlled environment of the retail area, the risk of loss and illegal diversion is reduced.

§ 5403. Hours of Operation

This proposed regulation specifies the hours during which a retailer may sell and deliver cannabis goods. The proposed regulation prohibits a licensed retailer from selling or delivering cannabis goods between the hours of 10:00 p.m. to 6:00 a.m. The Bureau has determined that during these hours, there is a greater risk of crime or diversion because it is

dark and there are fewer people in public, factors that increase the likelihood of criminal activity. By requiring that retailers not be open to the public during these hours, the risk of criminal activity is reduced. During these hours, the retailer must be closed to the public and will be required to follow certain security requirements found in proposed section 5403.1. This requirement would minimize the potential and opportunity for an individual with the intent to rob or steal cannabis goods, to simply walk into the retailer and find product on display in the retail area, cash in the registers, and employees on the premises, at times when those on the premises may be more vulnerable and exposed. Therefore, the risk of robbery or other crime is lowered. This proposed section is also beneficial to ensuring the protection of the public as the highest priority.

§ 5403.1. Requirements While Not Open for Business

This proposed regulation specifies security requirements that a retailer must comply with during the hours the retail premises is not open for retail sales. The purpose of this proposed regulation is to reduce the risk of theft or other loss of cannabis goods while the licensed retail premises is not open for business and potentially unoccupied by the licensee's employees.

Subsection (a) of the proposed regulation specifies that while the retail premises is not open for to the public for retail sales, the retailer must securely lock the premises with commercial grade door locks. The purpose of this proposed subsection is to reduce the risk of loss due to theft as the chance of theft is minimized if the premises is securely locked.

Subsection (b) of the proposed regulation requires that the retail licensee utilize an active alarm system while the licensed premises is not open to the public for retail sales and the licensee or its employees are not on the licensed premises. The purpose of this proposed subsection is to reduce the risk of loss due to theft. The use of an alarm system will deter potential thieves and will notify the licensee of potential break-ins at the premises.

Subsection (c) of the proposed regulation requires the retailer to only allow employees and other authorized individuals to access the licensed premises when the premises is not open to the public for retail sales. It is reasonable to expect that employees and other individuals will be required to access the licensed premises even after the retailer is closed for retail sales. The purpose of this proposed subsection is to ensure that the licensee and its employees are in control of the licensed premises, thereby reducing the risk of loss due to theft. Security is very important in operating commercial cannabis business. Allowing a licensee to allow other unauthorized individuals on the licensed premises may result in the licensee losing control over who enters and accesses the premises, which may result in an increased risk of theft, diversion, or other unauthorized activity. Additionally, an unlicensed person is not subject to the rules and regulations for operating a licensed retail premises. By limiting access to only those authorized individuals who have specific business on the premises, the risk of loss due to theft is reduced. This proposed subsection also provides additional clarification as to who may be considered an authorized individual under this section, which includes persons there for legitimate business activities.

§ 5404. Retail Customers

The purpose of this proposed section is to clarify which individuals a retail licensee may sell adult-use cannabis goods to and which individuals a retail licensee may sell medicinal cannabis goods to. The proposed subsection also reiterates the requirement that a retailer must confirm the age of a customer. Business and Professions Code section 26140, subdivision (a)(4) prohibits an A-designated licensee from selling cannabis goods to any person who is not able to produce documentation indicating that they are 21 years old or older. Subdivision (c)(3) allows an M-designated licensee to sell medicinal cannabis goods to a medicinal cannabis patient or primary caregiver who can produce documentation indicating that they are at least 18 years old and possess a valid physician's recommendation for medicinal cannabis.

Subsection (a) of this proposed regulation restates the requirement found in Business and Professions Code section 26140, subdivision (a)(4) pertaining to the sale of adult-use cannabis goods. This proposed subsection also clarifies that a retailer is required to confirm the age and identity of each customer according to the requirements of proposed subsection (c) of this section. The restatement of the statutory requirement provides additional clarity on how retailers are expected to verify the age of an adult-use customer prior to selling the customer adult-use cannabis goods, and emphasizes the importance of restricting access of cannabis goods to only those individuals of age.

Subsection (b) of the proposed regulation restates the requirement found in Business and Professions Code section 26140, subdivision (c)(3) pertaining to the sale of medicinal cannabis goods. This proposed subsection also clarifies that a retailer is required to confirm the age and identity of a medicinal cannabis customer, as well as the customer's physician's recommendation as required in proposed subsection (c) of this section. The restatement of the statutory requirement provides additional clarity on how retailers are expected to verify the age and physician's recommendation of a medicinal customer prior to selling the customer cannabis goods.

Proposed subsection (c) clarifies what forms of documents of identification a customer may provide to a retailer to confirm the age of the customer. Proposed subsection (c)(1) clarifies that a document issued by a government entity that contains a minimum amount of identifying information may be used by a customer to confirm their age and identity to a retailer. The information required is not easy to change and is consistently present on many government issued identifications. The Bureau has determined that a document of identification issued by a government entity is reasonably likely to allow a retailer to effectively confirm the age and identity of the potential customer. Additionally, this type of document is reasonably difficult to falsify and the methods for verifying the authenticity of the document can easily be employed by the retailer.

Proposed subsection (c)(2) clarifies that a valid identification card issued to a member of the armed forces, containing the name, date of birth and a photo, may be used by a customer to confirm their age and identity to a retailer. The Bureau has determined that a military identification card is reasonably likely to allow a retailer to effectively confirm the

age and identity of the potential customer. Additionally, this type of document is reasonably difficult to falsify and the methods for verifying the authenticity of the document can easily be employed by the retailer.

Proposed subsection (c)(3) clarifies that valid passport issued by the United States or a foreign government may be used by a customer to confirm their age and identity to a retailer. The Bureau has determined that a valid passport is reasonably likely to allow a retailer to effectively confirm the age and identity of the potential customer. Additionally, this type of document is reasonably difficult to falsify and the methods for verifying the authenticity of the document can easily be employed by the retailer.

§ 5405. Cannabis Goods Display

This proposed section clarifies the requirements for the display of cannabis goods. The purpose of this section is to reduce the risk of loss due to theft and to reduce or eliminate the exposure of minors to cannabis. The provisions in this proposed section also aim to protect the health and wellness of cannabis customers by ensuring that cannabis goods purchased from the retail premises are free from contamination.

Proposed subsection (a) of this proposed regulation requires that any cannabis goods displayed by the retailer for inspection by customers shall only be displayed in the retail area. The purpose of this subsection is to reduce the risk of loss due to theft by limiting the use of displays. the retail area is required to be monitored by video surveillance. Additionally, employees of the retailer are required to be physically present in the retail area while customers are there. By limiting the display of cannabis goods to the controlled environment of the retail area, a retailer will be able to reduce the risk of theft as the cannabis goods will constantly be monitored and controlled by employees and monitored by video surveillance.

Proposed subsection (b) of the proposed regulation allows a retailer to remove cannabis goods from the product packaging and place it in a separate container for display purposes. This will allow customers to inspect the cannabis goods either visually, or by touch or smell. Proposed subsection (c) also requires that any cannabis goods removed from the packaging and placed in display containers not be readily accessible to customers. The proposed subsection requires that these display containers be provided to customers for inspection by retailer employees. The employees are then required to remain with the customer while they inspect the containers of cannabis goods. The purpose of this proposed requirement is to reduce the risk of loss due to theft. By requiring retailer employees to assist customers with the display containers, the risk of customers potentially stealing the contents of the containers is greatly reduced, and provides accountability for the good. Additionally, it is beneficial in educating the customers, and helping them understand the cannabis goods they are interested in purchasing, should they have any questions or concerns regarding the product.

Proposed subsection (c) of the proposed regulation protects the health and safety of customers by preventing retailers from selling any products that are removed from their

packaging and used for display. This proposed subsection requires that any product removed from its packaging for display purposes is destroyed once it is no longer being used as display. This ensures that all product sold to customers is still sealed in packaging and free from potential adulteration. This requirement also ensures that any cannabis goods used for display will not be sold by a retailer to customers.

§ 5406. Cannabis Goods for Sale

The purpose of this proposed regulation is to protect the health and wellness of cannabis customers by requiring the retailer to ensure that any cannabis goods sold to customers have been properly tested as required by MAUCRSA and that the cannabis goods are safe for consumption.

Proposed subsection (a) requires retailers to ensure that any cannabis goods sold by the retailer have come from a licensed distributor or licensed microbusiness. The Act requires that all cannabis goods sold by a retailer first move through a licensed distributor for quality assurance and laboratory testing. This subsection places the responsibility on the retailer to ensure that any cannabis goods they sell complies with the requirements of the Act. This would also prohibit the retailer from selling cannabis goods that were not obtained through proper channels. The purpose of this subsection is to ensure that all cannabis goods sold by retailers have undergone all of the safety checks and testing required by the Act, thereby assuring that all cannabis goods intended for sale are safe for consumption.

Proposed subsection (b) requires that a retailer verify that any cannabis good sold by the retailer has not exceeded the expiration or sell-by date on the product packaging, if one is provided. The purpose of this subsection is to protect the health and wellbeing of cannabis customers by ensuring that retailers do not provide customers with cannabis goods that are potentially harmful.

Proposed subsection (c) of the proposed section requires that a retailer verify that all manufactured cannabis goods sold by the retailer complies with the specific requirements found in the Act and the regulations developed by the California Department of Public Health's Manufactured Cannabis Safety Branch. There are a number of requirements for manufactured cannabis products found in the Act and the regulations. Many of the requirements are designed to ensure that the manufactured cannabis products are safe for consumption. Although manufacturers are already responsible for ensuring that the cannabis products they manufacture comply with all of the legal requirements, this proposed regulation would also place the responsibility on retailers. As the final licensee to handle the manufactured cannabis products before the cannabis goods are sold to a customer, it is important that the retailer ensure that the manufactured cannabis products comply with all of the legal requirements before making the products available to customers for consumption.

Subsection (d) of the proposed section requires the retailer to verify that all cannabis goods sold by the retailer have undergone the laboratory testing required by the Act. Although

distributors and testing laboratories are already responsible for ensuring that cannabis goods transported to a retailer have been properly tested, this proposed regulation would also place the responsibility on retailers. As the final licensee to handle the cannabis goods before the cannabis goods are sold to a customer who will consume the cannabis goods, it is important that the retailer ensure that the cannabis goods have been properly tested and are thus safe for customers to consume.

Subsection (e) of the proposed section requires the retailer to verify that any cannabis goods sold by the retailer are properly packaged and labeled as required by the Act and the regulations released by all three of the licensing authorities. The packaging of cannabis is important because the Act requires specific packaging requirements with the intention of preventing young children from accessing the cannabis goods. Similarly, the labeling of cannabis goods is important because customers obtain information about products from their labeling. There are specific requirements within the Act and the regulations from the licensing authorities that require specific information to be included on the product's label. Although distributors, cultivators, and manufacturers are already responsible for ensuring that cannabis goods transported to a retailer are properly packaged and labeled, this proposed regulation would also place the responsibility of final review of packaging and labeling on retailers. As the final licensee to handle the cannabis goods before the cannabis goods are sold to a customer who will consume the cannabis goods, it is important that the retailer ensure that the cannabis goods have been properly packaged and labeled so that young children do not access the cannabis goods and the customers purchasing the cannabis goods have access to the information that is required to be placed on the product labels.

Subsection (f) of the proposed section requires the retailer to verify that all cannabis goods comply with all other requirements found within the Act and the applicable regulations. This subsection makes the retailer responsible for verifying that any cannabis goods sold by the retailer comply with all other legal requirements not specifically stated in this section. As the final licensee to handle the cannabis goods before the cannabis goods are sold to a customer who will consume the cannabis goods, it is important that the retailer ensure that the cannabis goods comply with all of the legal requirements, which are geared towards ensuring the public's health and safety, before making the cannabis goods available to customers. Every licensee in the supply chain has a responsibility to ensure the safety of the product they are moving forward, as they receive the gains and benefits from selling the product down the supply chain. As the licensee with control over the cannabis goods before it is sold to the customer, the retailer is the last licensee with the opportunity to prevent unauthorized access to cannabis goods, or access to harmful cannabis goods.

§ 5407 Sale of Non-Cannabis Goods on Premises

This proposed section clarifies that a retailer may only sell specific products, limited to cannabis goods, cannabis accessories, and any licensees' branded merchandise or promotional materials. This is to ensure there is no cross-contamination from non-cannabis related goods, and to preserve the integrity of the goods sold. The privileges of licensure

only allow for commercial cannabis activities, it does not include other commercial enterprises, which this proposed section is necessary to clarify and make specific. The Bureau has determined that branded merchandise and promotional materials are closely related to commercial cannabis activity and therefore, can be sold. This provision also provides consistency between what distributors can transport and what retailers can sell.

§ 5408. Sale of Live Plants and Seeds

This proposed section provides the requirements for the sale of live cannabis plants and seeds by retailers. The proposed section also protects the health and wellness of customers by prohibiting retailers from selling products that may be harmful.

Subsection (a) of the proposed regulation clarifies that a retailer may engage in the sale of live immature cannabis plants and cannabis seeds so long as the requirements in the proposed section are met.

Subsection (a)(1) of the proposed section requires that any cannabis plants sold by a retailer are not flowering. The purpose of this subsection is to protect the health and wellness of customers who purchase cannabis plants from a retailer. A cannabis plant that is flowering contains cannabis flowers that the purchaser of the plant may be able to consume. Any cannabis found on a live cannabis plant is unlikely to have been tested and may not be safe for consumption by a customer. Therefore, retailers may not sell live plants that already contain cannabis flowers.

Subsection (a)(2) of the proposed section requires that any cannabis plants or seeds sold by a retailer must have originated from a licensed nursery or a microbusiness authorized to engage in cultivation. The Act requires that all cannabis goods sold by a retailer be obtained from other licensees. Retailers are prohibited from selling cannabis goods that have not gone through the proper supply chain. The purpose of this proposed subsection is to ensure that retailers only sell cannabis plants and cannabis seeds that were obtained through the proper supply chain as required by the Act.

Subsection (a)(3) of the proposed section requires that all cannabis plants and cannabis seeds sold by a retailer must be affixed with a label indicating that the plant or seeds have not been tested as required by the Act. Business and Professions Code section 26110, subdivision (a) exempts immature cannabis plants and cannabis seeds from the testing requirements of the Act. The purpose of this proposed subsection is to eliminate any confusion that may arise in the purchase of a cannabis plants or cannabis seeds from a retailer. This proposed subsection ensures that customers who purchase cannabis plants or cannabis are fully aware that the products have not undergone the same laboratory testing procedures that are required for other cannabis goods for sale.

Subsection (b) of the proposed section prohibits retailers from selling other types of live plants outside of cannabis plants. The purpose of this section is to eliminate any confusion that may result if retailers carried other types of plants in addition to cannabis plants. Customers, Bureau staff, and law enforcement may be confused as to which plants are cannabis plants and what plants are not if a retailer sold a variety of different kinds of

plants. In order to reduce the risk of this confusion, retailers will be limited to only selling cannabis plants under this proposed subsection.

Subsection (c) of the proposed section prohibits a retailer from applying or using pesticides on a cannabis plant for sale. The proposed subsection also prohibits a retailer from causing pesticides to be applied or used on cannabis plants for sale. The purpose of this proposed subsection is to protect the health and well-being of retailer employees and customers who purchase cannabis plants from retailers. Since the Act does not require cannabis plants for sale to be tested, if pesticides were applied to cannabis plants for sale, there would be no reliable method for identifying whether the cannabis produced from the plant would be unsafe to consume due to the pesticide use. Therefore, in order to ensure that cannabis sold by retailers do not contain harmful levels of pesticides, the use of pesticides is completely prohibited on these plants.

§ 5409. Daily Limits

This proposed section provides the maximum amount of cannabis goods that a retailer may sell to an individual customer. The amounts found in this section mirror the legal possession limits for adult-use cannabis users found in Health and Safety Code section 11362.1 and the legal possession limits for medicinal cannabis patients found in Health and Safety Code section 11362.77. The purpose of this proposed section is to prevent retailers from selling an amount of cannabis goods to a customer which would result in the customer being in violation of the legal possession limits for cannabis. Additionally, placing a limit on the amount an individual can purchase reduces the risk of the customer becoming a target of criminal activity as they leave the retail premises with a large amount of cannabis goods. Also, limiting the amount that can be purchased in a single day reduces the risk of a customer illegally reselling cannabis goods purchased from a retailer.

The proposed regulation prohibits a retailer from selling a customer an amount of cannabis goods in excess of the amounts stated in the proposed section to a single customer in a single day. The Bureau has determined that requiring retailers to track the amount of cannabis sold to a single customer in a single day is the most effective method of balancing the Bureau's interest in reducing the risks stated above, while limiting the amount of resources that a retailer would have to invest in developing a system for tracking the amounts purchased by customers. The proposed subsection does not require retailers to track the total amount of cannabis goods possessed by a customer. A retailer is only required to track the amount of cannabis goods sold to the customer by that retailer.

Subsection (a) of this proposed section provides the amount of adult-use cannabis goods that a retailer may sell to a single customer in a single day. Under the proposed subsection, a retailer may sell up to 28.5 grams of non-concentrated cannabis, eight grams of concentrated cannabis as defined in the Act, and six immature cannabis plants. The limits found in this proposed section are identical to the possession limits for adult-use cannabis found in Health and Safety Code section 11362.1. The purpose of this subsection is to clarify the specific amount of adult-use cannabis goods in each category that a retailer may sell to a single customer in a single day.

Subsection (b) of this proposed section provides the amount of medicinal cannabis goods that a retailer may sell to a single patient or primary caregiver in a single day. Under the proposed subsection, a retailer may sell up to eight ounces of medicinal cannabis in the form of dried mature flower or the plant conversion or 12 immature cannabis plants. The limits found in this proposed section are identical to the possession limits for adult-use cannabis found in Health and Safety Code section 11362.77. The purpose of this subsection is to clarify the specific amount of medicinal cannabis goods that a retailer may sell to a single customer in a single day.

Subsection (c) of the proposed section provides an exception to subsection (b). Under section 11362.77, subsection (b) of the Health and Safety Code, a medicinal cannabis patient or primary caregiver may legally possess an amount of medicinal cannabis in excess of the limits stated in statute if the physician's recommendation indicates that the statutory possession limits does not meet the patient's medicinal needs. In this case, a patient may legally possess an amount of cannabis that is consistent with the patient's needs. This proposed subsection clarifies that a retailer may sell a medicinal cannabis patient an amount of medicinal cannabis goods that meets the patient's needs so long as the patient's physician's recommendation indicates this. The purpose of this proposed subsection is to allow retailers to sell medicinal cannabis goods to patients in amounts that are consistent with the requirements of Health and Safety Code section 11362.77.

Proposed subsection (d) clarifies that the medicinal and adult-use limits contained in this section cannot be combined to allow a customer to purchase an amount of cannabis goods that exceeds either of the limits set in this section. This proposed subsection is necessary to eliminate any confusion regarding the purchase limits in this section and to address the issue of whether a medicinal patient may purchase the maximum amount allotted for medicinal cannabis goods in addition to the maximum amount allotted for adult-use cannabis goods. The proposed subsection clarifies that a medicinal patient may not.

§ 5410. Customer Return of Cannabis Goods

This proposed section provides an overview on how a retailer must handle customer returns of cannabis goods. The proposed section also states what a retailer must do with cannabis goods that are returned by a customer. The purpose of this section is to protect the health and safety of customers by reducing the risk of customers being sold adulterated cannabis goods. All cannabis goods sold by a licensed retailer are required to be tested by a licensed testing laboratory prior to sale. If the cannabis goods are then returned to the retailer, there is no reasonable method for effectively ensuring that the cannabis goods were not contaminated or adulterated in any way, after being sold, and prior to return.

Proposed subsection (a) of the proposed section provides a definition for the term "customer return" as the term is used in this proposed subsection. This is important in order to differentiate the types of transactions covered in this proposed regulation from other types of returns such as returns between licensees. For clarity, this section is limited to discussing the return of cannabis goods from customers to retailers.

Proposed subsection (b) of the proposed section clarifies that a retailer may accept returns of cannabis goods from customers. This section does not require dispensaries to accept returns, but gives them the ability to accept them if they wish.

Proposed subsection (c) prohibits a retailer from reselling cannabis goods that have been returned by a customer. Since there is no way for a retailer to be certain that the returned cannabis goods are not defective or have not been adulterated in any way, the retailer cannot resell the returned cannabis goods to another customer. The purpose of this proposed subsection is to protect the health and wellness of customers by reducing the risk of customers obtaining cannabis goods that may have been adulterated.

Proposed subsection (d) requires that any cannabis goods abandoned on the retailer premises be treated as a return and not be allowed to be resold. Since there is no way for a retailer to be certain that the abandoned cannabis goods are not defective or have not been adulterated in any way, the retailer cannot sell the abandoned cannabis goods to customer. The purpose of this proposed subsection is to protect the health and wellness of customers by reducing the risk of customers obtaining cannabis goods that may have been adulterated.

Proposed subsection (e) requires that a retailer destroy all returned cannabis goods in accordance with proposed section 5054 and 5055 of this division. This requirement further ensures that cannabis goods that have been returned will not be resold to other customers, or diverted. The purpose of this proposed subsection is to protect the health and wellness of customers by reducing the risk of customers obtaining cannabis goods that may have been adulterated.

§ 5411. Free Cannabis Goods

This proposed regulation provides the requirements a retailer must adhere to in order to provide free cannabis goods or free cannabis accessories. The purpose of this proposed regulation is to ensure that licenses comply with statutory requirements, while protecting the health and wellbeing of the public.

Business and Professions Code section 26153 prohibits a licensee from giving away cannabis goods or cannabis accessories as part of a business promotion or other commercial activity. Subsection (a) of the proposed regulation clarifies that a retailer generally may not provide free cannabis good to any person. The proposed subsection (a) also clarifies that a retailer would not be able to allow another person that is not employed by the retailer to provide free cannabis goods to any person on the licensed premises. Retailers providing free samples of cannabis goods to customers was a practice engaged in by many retailers prior to the enactment of the Act. It is necessary to clarify that under the act, the practice of providing free samples to customers is no longer permitted.

Proposed subsection (b) of the proposed regulation provides an exception to proposed subsection (a). Proposed subsection (b) allows a retailer to provide medicinal cannabis goods to medicinal cannabis patients if certain requirements are met. The ability to provide free medicinal cannabis goods to certain patients is limited to M-retailers, M-non-storefront retailers, and M-microbusiness licensees who are authorized for medicinal retail sales. The

reason only these licenses may provide free cannabis goods is because the cannabis goods held by retailers are required to undergo assurance and laboratory testing. By limiting the provision of free cannabis goods to these licensees, the Bureau can ensure that all cannabis goods provided to patients under this section are safe for consumption. Additionally, providing free goods to patients does not constitute free goods as part of a business promotion, which is prohibited.

Proposed subsection (b)(1) requires retailers to only provide free cannabis goods to medicinal cannabis patients who possess an identification card. This requirement is consistent with the requirement to be exempted from sales tax as a medicinal cannabis patient. The purpose of this proposed subsection is to provide access to medicinal cannabis for those that may have difficulty in obtaining it. The Bureau has received many public comments on compassionate care use of medicinal cannabis, and the dangers and risks of restricting access to medicinal cannabis.

Subsection (b)(2) of the proposed section requires that any cannabis goods provided to a medicinal cannabis patient or primary caregiver under this section comply with all of the required laboratory testing. The purpose of this proposed subsection is to protect the health and wellbeing of medicinal cannabis consumers by prohibiting retailers from providing cannabis goods that have not been properly tested.

Subsection (b)(3) of the proposed section requires that all cannabis goods provided to a medicinal cannabis patient or primary caregiver for free under this section be properly entered into the State track and trace program as belonging to the retailer's inventory. The purpose of this proposed subsection is to allow for the accurate tracking of the movement of cannabis goods through the track and trace system as required by the Act.

Subsection (b)(4) of the proposed subsection requires that any cannabis provided to a medicinal cannabis patient or primary caregiver under this section comply with packaging requirements for leaving a licensed premises. As noted above, retailers are the final licensee to handle the cannabis goods before the cannabis goods are provided to a medicinal customer who will consume the cannabis goods. Thus, it is important that the retailer ensure that the cannabis goods have been placed in a proper package so young children do not access the cannabis goods and the package is opaque as required by statute.

Subsection (b)(5) of this proposed section requires a retailer to apply any amount provided to a medicinal cannabis patient or primary caregiver under this section to the total amount of cannabis goods that a medicinal cannabis patient or primary caregiver may purchase under proposed section 5409. The purpose of this proposed subsection is to ensure consistency between the requirements for cannabis purchased from a retailer and cannabis received by a medicinal cannabis patient or primary caregiver from a retailer under this proposed section. The reasons for limiting the amount of cannabis goods a single medicinal cannabis patient or primary caregiver may purchase would also apply to amounts of cannabis goods provided to a medicinal cannabis patient or primary caregiver under this section.

Subsection (b)(6) of the proposed subsection requires a retailer to properly record the transaction of providing free cannabis goods to a medicinal cannabis patient or primary caregiver in the state track and trace system. The purpose of this proposed subsection is to allow for the accurate tracking of the movement of cannabis goods through the track and trace system as required by the Act.

Subsection (c) of the proposed regulation clarifies that, in addition to providing free medicinal cannabis goods directly to medicinal cannabis patients and primary caregivers, a retailer may donate cannabis goods or the use of equipment to a compassionate use, equality, or similar program administered by a local jurisdiction. The subsection also requires donated cannabis goods to meet testing requirements and recorded in track and trace. The purpose of this subsection is to clarify a licensed retailer's ability to engage in philanthropic activities for locally-recognized compassionate use, equality, or other similar programs, while ensuring safe cannabis is donated and the goods are tracked properly.

§ 5412. Prohibition on Packaging and Labeling by a Retailer

This proposed section prohibits a retailer from packaging and labeling cannabis goods.

Under the Act, all cannabis goods must be tested by a licensed testing laboratory and must receive a certificate of analysis from a licensed testing laboratory before being transported to a retailer for sale to customers. To ensure that the test results are accurate, the packaging of the cannabis goods must not be opened between the time the testing occurs and the time the cannabis goods are sold to the final user. Packaging or repackaging at the retail facility may result in contamination or adulteration of the cannabis goods, which may render the test results inaccurate. In order to ensure that the laboratory testing results accurately apply to the product the customer is purchasing from a retailer, a retailer may not open the packaging or repackage cannabis goods prior to selling the cannabis goods to a customer. The purpose of this proposed section is to protect the public by ensuring accurate test results and safe products.

Subsection (a) of the proposed regulation clarifies that a retailer may not accept, possess, or sell cannabis goods that are not packaged as they will be sold at final sale. This proposed subsection will ensure that retailers do not receive any items that are not already packaged. Thus, reducing the risk that the retailer will have to package the cannabis goods themselves or sell cannabis goods that are not properly packaged and labeled.

Subsection (b) of the proposed regulation specifies that a retailer may not package or label cannabis goods. The purpose of this proposed subsection is to ensure that there is no confusion as to whether or not a retailer may engage in the packaging and labeling of cannabis goods.

Subsection (c) of the proposed regulation clarifies that a retail licensee who also holds a distribution, manufacturing, or cultivation license, may engage in packaging and labeling under the distribution, manufacturing, or cultivation license at the premises associated with the license. The purpose of this proposed subsection is to clarify any confusion regarding

whether or not a retail licensee who also holds other types of commercial cannabis licenses is still prohibited from packaging cannabis goods.

§ 5413. Exit Packaging

Business and Professions Code Section 26070.1 provides that all cannabis goods purchased by a customer shall not leave a licensed premises unless the cannabis goods are placed in a resealable child-resistant opaque package. This proposed regulation is a restatement of statutory requirements. The reason for the restatement is for the purpose of clarity.

§ 5414. Non-Storefront Retailer

This proposed regulation provides the requirements for the retail non-storefront license. The license is not included in the Act. The license is essentially a limited version of the retail license. A licensee who holds this license may engage in the retail sale of cannabis, but only through delivery. This provision reconsidered feedback received by the Bureau and allows for a lower cost option than a storefront retailer to participate in the regulated market. The purpose of this proposed regulation is to provide clarity on the requirements for obtaining and holding such a license.

Proposed subsection (a) of the proposed section provides a basic description of the license. This proposed section indicates that a licensee may engage in retail sales exclusively through delivery. The purpose of this proposed subsection is to provide a basic idea of the general activities a licensee may conduct.

Proposed subsection (b) of the proposed regulation provides the requirements for applying for a license. This proposed subsection requires that an applicant for a non-storefront retailer license submit all the information required for a retailer application. Since the non-storefront retailer license is very similar to the retailer license, the Bureau has determined that the application for a license requires the same information that would be required in non-storefront retailer license application.

Proposed subsection (c) of this proposed regulation provides the requirements for operating under a license. This proposed subsection requires licensees to comply with all requirements for licensees, with the exception of any provisions relating to public access to the licensed premises, licensing fees, and certain premises requirements. Since the non-storefront retailer license is similar to the retailer license, the Bureau has determined that it is appropriate to require licensees to comply with most of the requirements for a non-storefront retailer license except those provided in this proposed subsection. The Bureau has determined that the identified exceptions are necessary because they address particular issues that are related to the nature of licensing activities and operations.

Proposed subsection (d) of the proposed regulation specifies that the licensed premises of a non-storefront retailer licensee shall be closed to the public. Since a licensee is not authorized to engage in onsite sales of cannabis goods, there is no reason for member of the public to access the licensed premises. Therefore, to reduce the risk of theft or other loss, a licensee would be required by this proposed subsection to prohibit the public from

accessing the licensed premises. This proposed section is beneficial in allowing flexibility in license types, and allows for licensed commercial cannabis activity that helps to bring the illegal market into the regulated industry.

§ 5415. Delivery Employees

This proposed regulation provides the requirements for retailer delivery employees. Business and Professions Code section 26070, subdivision (c) requires that the driver of a vehicle transporting or transferring cannabis goods be directly employed by a licensee authorized to transport or transfer cannabis goods. The Act defines delivery as the commercial transfer of cannabis or cannabis products to a customer. Therefore, under the statute, a delivery employee of a retailer must be directly employed by that retailer. Subsection (a) of the proposed section restates the requirement regarding direct employment. The reason for the restatement is for clarity. Rather than require a licensee to refer to both the regulations and the statute for delivery employee requirements, a licensee may find the delivery employee requirements in the regulations.

Under current California law, an individual must be at least 21 years old to legally possess cannabis without a valid physician's recommendation. The Act mandates the Bureau to craft regulations that ensure a safe and secure operation of the commercial cannabis market. The Act also permits delivery by retailers; however, it does not clarify safety and security measures to be implemented. Under current California law, individuals under the age of 21 years are permitted to work and potentially deliver medicinal cannabis goods. Proposed subsection (b) requires that all delivery employees be at least 21 years old. This is a restatement of the requirement found in proposed section 5031. The purpose for restating this requirement here is for clarity. The requirements for delivery employees can be found in this chapter rather than requiring a licensee to refer to multiple chapters within the division to find the requirements for delivery employees. The purpose of this requirement is to reduce the risk of exposure of minors to cannabis.

Proposed subsection (c) requires in person deliveries. The reasoning for this requirement is so that the delivery employee can confirm the identity of the customer requesting the delivery before providing cannabis goods to the customer. This also prevents a delivery employee from leaving a delivery unattended. Additionally, the use of drones or other automated delivery vehicles would be prohibited under this subsection; such delivery methods may result in an increased risk of loss due to theft and other crimes as they may be a target for theft.

Proposed subsection (d) clarifies when a delivery begins and ends. This proposed subsection specifies that the process of delivery begins when the delivery employee leaves the licensed premises with the cannabis products to be delivered, and ends when the delivery employee returns to the licensed premises after completing the deliveries. This is important to specify when a delivery begins and ends so that delivery employees will be informed as to when they are required to comply with all of the requirements for actively performing a delivery. This proposed subsection also assures that deliveries are made in an efficient manner, with limited stops by delivery employees. If delivery drivers were to

engage in additional activities or stops while carrying large amounts of cash or product, their vehicles may render them a target for theft or other criminal activity. This proposed subsection would limit the potential for any loss or diversion if a delivery driver leaves their vehicle unattended.

Proposed subsection (e) requires that the delivery employee always carry a copy of the retailer's license, the employee's identification card, and an employee badge while making deliveries. The requirement to maintain these documents while making deliveries is required by Business and Professions Code section 19340. The requirement is restated in this proposed regulation for clarity purposes. This subsection also assures that if stopped by law enforcement or Bureau staff for inspection, drivers and the licensee's status can be properly identified.

Proposed subsection (f) requires delivery employees to confirm the age and identity of a delivery customer prior to providing the cannabis goods to the customer as required by proposed Section 5402.1 of this division. It is important for a delivery employee to confirm the age and identity of a delivery customer to ensure that the delivery customer is legally authorized to purchase and possess cannabis goods. The purpose of this proposed subsection is to ensure that cannabis goods are not delivered to minors who cannot legally purchase and possess cannabis goods. The subsection also requires the delivery employee to place the cannabis goods into a resealable, child-resistant opaque exit package. This is necessary to comply with the requirement that cannabis goods be placed in an exit package prior to being given to a customer.

Proposed subsection (g) requires that the retailer maintain a list of their delivery employees. It is important for the retailer to maintain a list of delivery employees so that the retailer, law enforcement, and the Bureau can easily identify those individuals who are conducting deliveries for on behalf of the licensed retailer. A retailer licensee must be able to identify all of the individuals who are actively performing deliveries on behalf of the licensed retail location. Requiring identifying information of delivery drivers be kept and maintained provides the Bureau with the necessary information to properly and effectively audit the retailer. Ensuring only employees of the licensee are permitted to deliver cannabis goods and that the delivery be done in person provides the Bureau the ability to take appropriate action against a licensee's license for improper activity or malfeasance during delivery. These proposed requirements are also necessary to ensure that the delivery process is rendered as safe as possible, for the benefit of the employee, the licensee, and the public.

§ 5416. Delivery to Physical Address

Delivery is permitted under the Act, but the law does not provide any specific guidance or limitation on how to avoid conflicts with federal law or regulation. Clarity is needed to identify permissible delivery locations and methods. The Bureau's selection of acceptable delivery locations and roadways provide licensees clarity on where they can deliver. For instance, the subsection limits delivery routes to be entirely encompassed within the state; this mitigates the intersection of the State's regulation and potential conflict with federal

law. If the Bureau did not specify or identify locations where delivery could occur, licensees may interpret the silence to allow delivery at any location, including parks, near schools, and other unauthorized locations. Also, without a clear and specific recorded delivery location, Bureau enforcement and compliance investigations would be significantly impeded.

Proposed subsection (a) requires that all deliveries be made to a physical address in California. Requiring the delivery of cannabis goods to a specific physical address in California ensures that the Bureau is able to effectively track that all cannabis goods are reaching customers in California. This subsection also ensures that cannabis goods that are being delivered by licensees are not being diverted into the illegal or unregulated market or to other states.

Proposed subsection (b) requires that a delivery employee not leave the State of California while delivering cannabis goods. Requiring the delivery of cannabis goods to locations and routes wholly within the State of California helps to rectify potential conflicts with federal narcotics laws, and complies with the Act that restricts cannabis activity to within the state.

Proposed subsection (c) prevents a retailer from making a delivery to an address on publicly owned or leased land or buildings. This provision also helps to rectify potential conflicts with federal law by prohibiting deliveries to national parks, federally owned buildings, or other government-owned properties.

Proposed subsection (d) clarifies that a delivery employee may deliver to any jurisdiction within the State of California. This proposed subsection specifies where a delivery employee may deliver within the State of California, which is to any jurisdiction within the State of California. Business and Professions Code section 26090 subdivision (e) prohibits a local jurisdiction from preventing delivery of cannabis goods on public roads by a licensee acting in compliance with law. This is necessary to clarify that MAUCRSA and its implementing regulations do not impose restrictions or limit where a delivery employee may deliver, as long as it is within the State of California.

§ 5417. Delivery Vehicle Requirements

The Act mandates the Bureau to craft regulations that ensure the safe and secure operation of the commercial cannabis market. The Act permits retailers to deliver medicinal cannabis goods but does not provide clarification on how the delivery is to be executed.

The purpose of this proposed section is to mitigate potential theft, diversion into the illegal and unregulated market, and unsafe licensed activities while cannabis goods are being delivered. The provisions in this proposed section are intended to enhance public health and safety by reducing the risk of theft of product.

Proposed subsection (a) describes the requirements for a vehicle used in the delivery of medicinal cannabis goods. The vehicle is required to be an enclosed motor vehicle in order to increase public health and safety by limiting the potential for theft or other crimes while a delivery driver engages in the delivery process. This proposed subsection also requires that the vehicle be operated by a delivery employee of the retailer. This requirement is

intended to ensure that the retailer's delivery employee is in control of the movement of the cannabis goods throughout the delivery process.

Proposed subsection (b) requires that the delivery employee ensure that any cannabis goods that are being delivered are not visible to the public. This requirement serves to enhance public health and safety by limiting the risk of the delivery employee becoming a target of theft or other criminal activity.

Proposed subsection (c) provides that cannabis goods may not be left in the vehicle unattended unless the vehicle is equipped with a vehicle alarm system. This proposed subsection reduces the risk of cannabis goods being stolen from within the delivery vehicle while the delivery staff has left the vehicle to make a delivery.

Proposed subsection (d) requires that all delivery vehicles be outfitted with a device for tracking the vehicle's geographic location. The purpose of this proposed subsection is to allow the Bureau to effectively monitor delivery vehicles. The subsection requires that the device be permanently or temporarily affixed to the vehicle. The subsection also requires that the device be functioning the entire time the vehicle is making deliveries. It is essential that a retailer have a record of where its delivery vehicles are located at all times and that the Bureau can be provided that information for enforcement purposes. The devices must be affixed to the vehicle at all times during delivery so that the device is not removed from the vehicle while the delivery employee is making a delivery. This is likely to happen if the device is also being used as a cellular phone. In addition, if a delivery vehicle with cannabis goods is stolen, it would be beneficial to have the GPS device inside of the vehicle for tracking purposes.

Proposed subsection (e) requires the licensee to provide the Bureau with information pertaining to delivery vehicles, including the make, model, color, VIN, license plate number, and DMV registration information. These requirements are important to assure that licensees are maintaining accurate records. They also enable the Bureau to effectively monitor whether licensees are conducting deliveries consistent with the Act and its implementing regulations.

Proposed subsection (f) allows the Bureau to inspect any vehicle that is used for delivery. This is important for the Bureau's ability to effectively monitor licensees and ensure that the delivery vehicles meet the requirements.

§ 5418. Cannabis Goods Carried During Delivery

The Act mandates the Bureau craft regulations that ensure the safe and secure operation of the commercial cannabis market. The Act does not provide clarity as to how retailers are required to accept or process orders of cannabis goods for delivery. The Act also does not specify how much product a delivery driver may carry while making deliveries.

This proposed section is necessary to enhance public health and safety by mitigating not only the loss of cannabis goods, but the potential for theft and other crimes during delivery. The proposed section also ensures that all cannabis goods leaving the retail premises with a

delivery employee are properly accounted for. Limiting the amount of cannabis goods that a delivery employee may carry also limits the amount of loss that may occur in the case of theft. It also reduces the risk of a delivery driver's consumption during delivery.

Proposed subsection (a) provides that a delivery employee may not carry cannabis goods in excess of \$10,000 at any time. The purpose of this proposed rule is to limit the amount of cannabis goods that a delivery employee carries, thereby limiting the amount of cannabis goods that may be lost or diverted in the case of theft or another crime. The Bureau has determined that \$10,000 of cannabis goods is an appropriate amount because it enables a delivery driver to accept additional orders while already on the road, resulting in economies of scale. This amount also ensures that drivers do not have to drive back and forth between delivery locations, and the retail premises; reducing the amount of vehicle miles traveled will minimize potential environmental impacts associated with greenhouse gas.

Proposed subsection (b) provides that a delivery employee may only carry cannabis goods in the delivery vehicle, and may only perform deliveries for one licensed retailer at a time. The purpose of this subsection is to assure that licensees and the Bureau may effectively track the activities of that particular licensee at a given time. Permitting drivers to operate for multiple licensees or conduct other business may conflate records, commingle product, and may increase the potential for loss or diversion due to theft or other criminal activities. This subsection assures that both licensees and the Bureau may effectively track a particular licensee's activities at a given time.

Proposed subsection (c) provides that a delivery employee shall not leave the licensed premises without at least one delivery order that has been received and processed by the retailer. This subsection assures that delivery drivers are not aimlessly driving around, waiting for orders. Allowing delivery drivers to do so would not only result in potential environmental impacts associated with greenhouse gasses, but increase potential opportunities for theft or other crimes, as the driver may be a potential target.

Proposed subsection (d) provides that a delivery driver must have a delivery inventory ledger of all cannabis goods provided to the delivery driver. After each delivery, the driver must update the ledger to reflect the current inventory in its possession. This requirement serves to aid both licensees and the Bureau to effectively track product that is being conveyed by delivery drivers. Detailed record keeping helps minimize potential losses or diversion because all product would need to be accounted for. Any discrepancies in records and product could possibly be identified based on the ledger. Moreover, it provides both licensees and the Bureau additional opportunities to audit licensee and employee activities.

Proposed subsection (e) requires delivery drivers to maintain a log of all stops from the time of the driver leaves the licensed premises to the time they return to the licensed premises. This requirement, as with the ledger, serves to aid both licensees and the Bureau to effectively track the activities of the delivery employees. As with the delivery ledger, it provides both licensees and the Bureau additional opportunities to audit licensee and employee activities.

Proposed subsection (f) requires that prior to arrival at any delivery location, the licensed retailer must have received the delivery request from the customer and provided the delivery request receipt to the delivery driver electronically or in hard copy. This requirement aids the licensees and the Bureau to effectively track the activities of the delivery employees and reduces the risk of unauthorized diversion.

Proposed subsection (g) provides a list of documents a delivery driver must provide to the Bureau or any law enforcement officer upon request. Specifically, drivers must provide their inventory ledgers, delivery request receipts, and log of all stops for inspection. This enables the Bureau and law enforcement to effectively audit licensee and employee activities. It also ensures that the Bureau and law enforcement have all the information necessary to evaluate whether the delivery driver is operating in conformance with the Act and its implementing regulations.

Proposed subsection (h) provides that if a delivery driver does not have any delivery requests for a 30-minute period, they must cease making any deliveries and return to the licensed premises. This subsection serves to prevent delivery drivers from driving around aimlessly or idling while they wait for additional orders to come through, thus limiting the potential environmental impacts associated with greenhouse gasses and potential opportunities for theft or other crimes.

Proposed subsection (i) provides that upon returning to the licensed premises, all undelivered cannabis goods shall be returned to inventory and all necessary inventory and track-and-trace records be updated as appropriate. This requirement assures that the movement of cannabis goods is properly accounted for through track-and-trace and limits the potential for diversion. It also assures that retailer licensees maintain up-to-date record keeping as orders are sent and received throughout the day.

§ 5419. Cannabis Consumption During Delivery

The Act mandates the Bureau craft regulations that ensure a safe and secure operation of the commercial cannabis market. This proposed section prohibits delivery employees from consuming cannabis while making deliveries. This proposed section is necessary to protect public safety by ensuring that drivers are not operating motor vehicles and making deliveries while impaired.

§ 5420. Delivery Request Receipt

Business and Professions Code section 26090, subdivision (c), mandates that each delivery of cannabis goods be accompanied by delivery request documentation; however, the act fails to specifically identify what information is to be captured on the delivery request documentation. The Business and Professions Code also does not clearly state the manner and method of receipt collection and retention.

Proposed subsection (a) lists the information that is required to appear on the delivery request receipt. The name and address of the retailer is necessary to identify the retailer that completed the delivery. The name of the delivery employee is also important to identify the

identity of the individual employee who performed the delivery. The name of the employee who prepared the delivery is important because if the employee who delivered the medicinal cannabis goods was not the same employee who prepared the delivery, any problem with the preparation of the order would be attributable to the preparer and not the delivery employee. This information is required to identify the preparing employee. The identity of the customer who requested the delivery is important because the Bureau may need to verify the identity of the customer. The date and time the delivery request was made and completed is important for the identification of the transaction. The delivery address is necessary because the Bureau may need to verify that the delivery was made to a valid California address. Additionally, the Bureau or law enforcement may need to get in contact with the customer who requested the delivery in the event of an investigation. A description of the cannabis goods delivered, and the total amount paid for the delivery is important to identify the transaction. Additionally, information regarding the cannabis goods sold and the amount paid may be vital in the case of an investigation and to track the product was legally sold to a customer. The signature of the customer who received the delivery is important in verifying that the customer did in fact receive the order.

Proposed subsection (b) requires that the delivery employee provide the customer with a copy of the receipt and bring a copy of the receipt back to the retailer. This is important because it provides the customer with an opportunity to verify the transaction before signing the receipt. Also, requiring the maintenance of copies of all transactions allows for the Bureau to inspect all necessary records during the course of an investigation; a retailer will be able to provide information on every delivery it performed.

Proposed subsections (c) and (d) provide additional clarity by defining the terms “employee number” and “customer number” as used in this section. This is necessary to ensure that licensees understand their responsibilities to identify employees and customers under this proposed section, while protecting identification of these persons by other people which could compromise privacy and safety.

This section is necessary to comply with the requirements of the Act and to effectively track deliveries of cannabis goods. Ensuring that every transaction is associated with a legitimate sale to a customer is vital to preventing the entry of untested cannabis goods into the market and diversion of cannabis goods into the illegal unregulated market. By clearly identifying what information is required, this section provides the Bureau unique and specific information which can be utilized during retailer audits. Requiring the receipt be prepared in advance of the delivery helps to prevent diversion of medicinal cannabis goods and ensures that all medicinal cannabis goods leaving the retailer are properly accounted for.

§ 5421. Delivery Route

If a specific delivery route is not defined, the delivery employee has unfettered freedom of movement. This freedom could potentially increase the opacity of the activity, making diversion and illegal activity more likely to occur. Without a clearly defined delivery plan, enforcement of proper and improper activity is more difficult.

This section is necessary to ensure cannabis goods stay within the designed supply chain and prevent diversion and other illegal activity. This section requires that delivery employees travel between the licensed retailer to the delivery address, from one delivery address to another delivery address, or from a delivery address back to the licensed retail premises. This requirement reduces the duration that product is en route, which lowers the risk of loss due to theft or other crime. This section also recognizes the need for flexibility in delivery of cannabis goods and provides reasonable exceptions for justifiable delivery path deviations.

§ 5422. Receiving Shipments of Inventory

This proposed regulation provides the requirements that a retailer must comply with in receiving shipments of inventory of cannabis goods. The purpose of this proposed regulation is to reduce the risk of theft of cannabis goods while a retailer is accepting inventory shipments.

Subsection (a) of this proposed section clarifies that all shipments of inventory be delivered by a licensed distributor as required under Business and Professions Code section 26070, subsection (b). This proposed subsection restates the statutory requirements for clarity purposes.

Proposed subsection (b) limits the time a licensed retailer may accept shipments of inventory to between 6:00 a.m. and 10:00 p.m. Retailers face an increased risk of theft or other crime while receiving shipments between the hours of 10:00 p.m. and 6:00 a.m. This is due to the fact that it is typically darker at this time and there are fewer people out in public. By requiring retailers to avoid receiving shipments of inventory during these times, the retailers are able to reduce the risk of theft or other crime that may occur while a retailer is receiving a shipment of inventory.

Proposed subsection (c) requires that retailers receive shipments of inventory through an entryway that is not used by the public to enter or exit the premises. This reduces the risk of an individual who is not an employee of the licensee gaining access to the products that are being received by the retailer. Requiring the use of an entryway that is free of customers and other non-employee individuals reduces the risk of theft or other crime that may occur while a retailer is receiving a shipment of inventory.

§ 5423. Inventory Documentation

This proposed section provides the required inventory information that a retailer is required to document and maintain records on. The purpose of this proposed regulation is to ensure the effective use of the state track and trace system. This will in turn allow the Bureau and the other state licensing authorities to effectively track the movement of cannabis goods throughout the state. This proposed section requires that a retailer keep records of specific information for all cannabis goods in the retailer's inventory.

The information requested in subsections (a) and (b) is necessary for inventory documentation. By documenting the description of each item in the inventory and the

amount of each item, a retailer will be able to identify the items found in its inventory. Additionally, the Bureau may use this information to cross-reference with the track and trace system to verify that all the retailer's transactions and inventory levels were properly reported in the track and trace system.

The information requested in subsection (c) is required to ensure that the retailer's records are consistent with the information in the track and trace system. Subsection (d) is necessary to verify that the retailer is not carrying any items for sale that are past their sell-by or expiration date if one is provided. The information requested in subsections (e) and (f) are necessary for verifying that the information entered into the track and trace system corresponds with the retailer's inventory records.

All the information required by this section is information that will allow of the identification of all cannabis goods in the retailer's inventory as well as information for tracking the movement of all products. For the Bureau to effectively regulate its licensees, the Bureau requires accurate information regarding the movement of cannabis goods. Requiring that all retailers keep records of this inventory information and make these records available to the Bureau will assist the Bureau in effectively tracking the movement of cannabis.

§ 5424. Inventory Reconciliation

This proposed regulation provides the requirements for retailers conducting inventory reconciliation. Inventory reconciliation is necessary to verify that the retailer's inventory record is accurate. Inventory reconciliation is an effective method for identifying diversion. If, through inventory reconciliation, a retailer discovers that some amount of inventory is unaccounted for, an investigation of the possible diversion of the missing cannabis goods can begin with the goal of returning the missing cannabis goods and preventing that type of loss from occurring in the future.

Proposed subsection (a) requires that inventory reconciliation occur at least every 14 days. The reason for this requirement is that the inventory of a retailer is constantly changing because retailers continuously receive shipments of cannabis goods while selling the cannabis goods from their current inventory to customers. Regular inventory reconciliations ensure that the retailer's inventory is up-to-date, and that any indications of diversion, theft, or loss are identified early. The Bureau has determined that requiring inventory reconciliations every 14 days will allow for the early identification of evidence of diversion, theft, or loss, without being overly burdensome.

Proposed subsection (b) provides a description of what a retailer must do when conducting an inventory reconciliation. When conducting an inventory reconciliation, a retailer is required to verify that the physical inventory that they have on hand is consistent with their records pertaining to their inventory. This is important to verify that the retailer's inventory records are accurate. In order to effectively track the movement of cannabis goods through the state track and trace system, the retailer's inventory records must be accurate. This proposed regulation ensures accuracy of retail inventory records.

Proposed subsection (c) requires the retailer to retain the results of inventory reconciliations as part of the retailer's records. The proposed subsection also requires the retailer to provide such records to the Bureau upon request. This requirement would allow the Bureau to review the results of an inventory reconciliation performed even after the date the inventory reconciliation occurred.

Proposed subsection (d) requires a retailer to notify the Bureau and law enforcement if the inventory reconciliation results in evidence of theft, diversion, or loss. This is a restatement of the requirement found in Business and Professions Code section 26070, subsection (k) and Section 5036 of this division. The requirement is restated in this proposed subsection for clarity. The obligations of a retailer following the conclusion of an inventory reconciliation that yields evidence of theft, diversion, or loss appear to be appropriate for restatement in this proposed section rather than requiring a licensee to refer to both the regulations and the statutes simultaneously for the requirements in this situation.

Proposed subsection (e) requires a retailer to notify the Bureau and law enforcement if the inventory reconciliation results in evidence of theft, diversion, or loss. This is a restatement of the requirement found in Business and Professions Code section 26070, subsection (k)(1) and section 5034 of this division. The requirement is restated in this proposed subsection for clarity. The obligations of a retailer following the conclusion of an inventory reconciliation that results in a significant discrepancy in inventory appear to be appropriate for restatement in this proposed section rather than requiring a licensee to refer to both the regulations and the statutes simultaneously for the requirements in this situation.

The Act requires that retailers notify law enforcement and the licensing authority if a significant discrepancy in inventory is identified or if diversion, theft, or loss occurs. This proposed section allows a retailer to more readily identify instances of loss by requiring regular inventory reconciliations be performed by retailers.

§ 5425. Record of Sales

This proposed regulation provides the requirements for the information that must be documented for each sale of cannabis goods to a customer. The purpose of this proposed regulation is to ensure that retailers are keeping accurate records of sales transactions which would allow the Bureau to effectively track the movement of cannabis goods throughout the state. Additionally, the information required to be kept by these subsections is required for the Bureau to effectively enforce regulations regarding cannabis goods sales.

Proposed subsection (a) requires a licensed retailer to maintain an accurate record of every sale to a customer. This proposed subsection clarifies the requirement under Business and Professions Code section 26160 that every licensee keep an accurate record of commercial cannabis activity, which includes sale of cannabis goods to customers. This proposed subsection helps to eliminate any confusion as to whether a sale of cannabis goods to a customer is required to be maintained as a record.

Proposed subsection (b)(1) requires the record of sale to contain the name and employee number of the retailer employee who processed the sale. This information is necessary to

identify the employee responsible for conducting the sale transaction in case issues arise and the employee is required to be contacted by the Bureau or law enforcement for information pertaining to the transaction.

Proposed subsection (b)(2) requires the retailer to record the first name and the customer number of the customer who purchased the cannabis goods. This information is necessary to identify the customer in case issues arise and the customer is required to be contacted by the Bureau or law enforcement for information pertaining to the transaction. Assigning a customer number to each customer allows the retailer to keep a record of the transaction without having to disclose the full name of the customer.

Proposed subsections (b)(3), (b)(4), and (b)(5) require the retailer to record the date and time of the transaction, a list of all cannabis goods purchased, and the amount paid for the cannabis goods. This information is necessary to properly identify the transaction and to ensure that the movement of cannabis goods is properly being recorded by the retailer so that the information can properly be uploaded to the track and trace system. By requiring the retailer to record the amount paid for the cannabis goods, the Bureau can ensure that retailers are not providing customer with free cannabis goods in violation of the Act.

These elements are needed because the record of each sale can be used by the Bureau to monitor a retailer's activity and ensure that the retailer is following the rules regarding sales. If it becomes necessary for the Bureau to investigate a specific sales transaction for enforcement purposes, the information required by these subsections will aid the Bureau in obtaining needed information regarding the sale.

Proposed subsections (c) and (d) provide additional clarity by defining the terms "employee number" and "customer number" as used in this section. This is necessary to assure that licensees understand their responsibilities to identify employees and customers under this proposed section.

§ 5426. Records

This proposed regulation clarifies that a retailer is responsible for maintaining records in accordance with proposed section 5037 of this division. The purpose of this proposed regulation is to eliminate any confusion for retailers on how they are required to maintain their records, and is required under MAUCRSA.

§ 5427. Retailer Premises to Retailer Premises Transfer

This proposed regulation provides the requirements for a retailer transferring cannabis goods to another licensed retail premises.

Proposed subsection (a) requires that for a retail licensee to transfer cannabis goods from one licensed retail premises to another licensed retail premises, the same licensee must hold the both retail licenses. Proposed subsection (b) clarifies that when a licensee transfers cannabis goods from one retail location to another retail location, the receiving retail location may sell the cannabis goods. These proposed subsections clarify that a licensee who holds multiple retail licenses may transfer cannabis goods from one retail license to

the other. It also recognizes that licensees with multiple licensed premises may have a need to adjust the inventory at their stores to address local supply and demand.

Proposed subsection (c) clarifies that all transportation of cannabis goods under this section must comply with all the requirements regarding the transportation of cannabis goods. The purpose of this proposed subsection is to prevent licensees from conducting the transportation of cannabis goods in violation of requirements found in other section of the statutes or regulations.

Proposed subsection (d) clarifies that any cannabis goods transferred under this section be properly recorded in the track and trace system. In order to effectively track the movement of cannabis goods throughout the state, the track and trace system must be properly updated with all transactions affecting the movement of cannabis goods. The purpose of this section is to ensure that the transport of cannabis under this proposed section complies with the tracking requirements within the Act. It also ensures that the Bureau is able to review accurate records regarding the transfer of products between retail stores.

§ 5500. Microbusiness

Business and Professions Code section 26070, subdivision (a)(3) provides that the Bureau must establish a process by which an applicant for a microbusiness can demonstrate compliance with all the requirements under the Act for the activities that will be conducted under the license. This section is necessary to clarify the requirements for licensure, when an applicant seeks a microbusiness to conduct multiple commercial cannabis activities.

The Act is silent as to how many commercial cannabis activities an applicant must engage in to qualify for a microbusiness license. Subsection (a) is necessary because it clarifies that a licensee must engage in at least three of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail. This requirement is necessary to ensure that applicants are actually microbusinesses rather than using the license as a substitute for single activity licenses. This subsection is also necessary because it provides clarification to prospective microbusiness applicants regarding the premises requirements for microbusinesses engaging in manufacturing and cultivation activities.

To assure that applicants are identifying all commercial cannabis activities they wish to engage in, subsection (b) clarifies that an applicant for a microbusiness license must identify all commercial cannabis activities it wishes to engage in on its application. This requirement is necessary because it aids the Bureau's processing of the application. It also helps the Bureau maintain accurate records and ensures applicants are qualified for the type of license they are applying for.

Proposed subsection (c) is necessary to assure that all applicants applying for the requested commercial cannabis activities are supplying consistent information to the licensing entities for review. This requirement is necessary because it aids the Bureau's processing of the application. It also helps the Bureau maintain accurate records and ensures applicants are qualified for the type of license they are applying for.

Pages 120-567
Intentionally Omitted

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EXHIBIT 53



Cannabis Advisory Committee
Meeting Minutes – August 20, 2018
Hilton Sacramento Arden West – Grand Ballroom
2200 Harvard Street, Sacramento CA 95815

Members Present (18):

Avis Bulbulyan
Timmen Cermak
Matt Clifford
Bill Dombrowski
Jeff Ferro
Kristin Heidelberg-Teramoto
Eric Hirata
Alice Huffman
Kristin Lynch
Kristin Nevedal
LaVonne Peck
Matt Rahn
Keith Stephenson
James Sweeney
Helena Williams
David Woolsey
Ben Wu
Beverly Yu

Members Absent (4)

Catherine Jacobson
Arnold Leff
Joe Nicchitta
Tamar Todd

Bureau of Cannabis Control (Bureau) Executive Staff Present

Lori Ajax – Bureau Chief
Melanie V. Ramil – Deputy Bureau Chief
Tamara Colson – Assistant Chief Counsel
Andre Jones – Assistant Chief of External and Intergovernmental Affairs
Alex Traverso — Assistant Chief of Communications

Minutes Taken By

Kaila Fayne, Staff Services Analyst, Bureau of Cannabis Control

1. Welcome, Call to Order, and Establishment of a Quorum (Matt Rahn, Chair, Cannabis Advisory Committee)

Matt Rahn, Cannabis Advisory Committee (Committee) Chair, called the meeting to order. Meeting official start time noted as 10:06 AM.

Roll was taken, 18 Committee members were present. Quorum was established.

Committee Comment: 0 Comments

Public Comment: 0 Comments

2. Review and Approval of May 17, 2018 Cannabis Advisory Committee Meeting Minutes

The Committee reviewed the May 17, 2018 draft minutes.

Committee Comment: 3 Comments

Chair Rahn commented that there was some debate regarding whether a motion had passed or failed at the prior meeting. He stated that Bureau staff had reviewed the webcast and the transcripts and determined the minutes were accurate. He clarified that due to the number of committee members present during the May meeting's vote, the motion did not have enough "ayes" to pass as required under the Bagley-Keene Opening Meeting Act (Bagley-Keene).

Committee Member Woolsey motioned the Committee to approve the May 17 meeting minutes. **Committee Member Sweeney** seconded the motion.

Public Comment: 3 Comments

Paul Hansbury: Mr. Hansbury commented that the motion that was discussed was regarding security measures for microbusinesses and stated that there was confusion about what defines a microbusiness under the Bureau's regulations, which may have caused the motion to not receive enough votes. He urged the Committee to re-vote on the motion now that there was a clearer understanding of what a microbusiness is.

Susan Tibbon: Ms. Tibbon stated that in previous meetings, the Committee and members of the public agreed that security measures should be determined by local jurisdictions rather than the State. She added that the regulations are guidelines and not set in stone.

Chair Rahn reminded the public that comments in this period are on the motion to approve the May 17 meeting minutes.

John Brower: Mr. Brower urged the Committee to re-evaluate the motion on security measures for microbusinesses and suggested that local authorities have temporary control over the businesses in their jurisdiction until the statewide market is more developed.

Roll call vote was taken, the motion to approve and adopt the May 17, 2018 minutes passed on a 18-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelberg-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

3. Review and Approval of July 19, 2018 Cannabis Advisory Committee Meeting Minutes

Committee Member Sweeney motioned for the Committee to approve and adopt the July 19 meeting minutes. **Committee Member Woolsey** seconded the motion.

Committee Comment: 0 Comments

Public Comment: 0 Comments

Roll call vote was taken, the motion to approve and adopt the July 19, 2018 minutes passed on a 18-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

4. Chair's Report: Status of the Advisory Committee's Adopted Recommendations in the Current and Proposed Regulations of the Bureau of Cannabis Control, California Department of Food and Agriculture, and California Department of Public Health

Chair Rahn provided an overview of the status of the Committee's adopted recommendations in the current and proposed regulations of the Bureau of Cannabis Control, California Department of Food and Agriculture, and California Department of Public Health.

Committee Comments: 16 Comments

Committee Member Yu asked if members will be able to modify or clarify any of the recommendations listed prior to the submission to the licensing authorities. **Asst. Chief Counsel Colson** responded and stated that the Committee can discuss the status of each recommendation and whether to include it as a public comment, but modifying or changing recommendations falls outside of what is on the meeting agenda.

Committee Member Wu requested clarification that if committee members had additional comments or recommendations, they would need to submit that separately on their own to the licensing authorities. **Chair Rahn** confirmed that additional comments or recommendations would need to be submitted separately to the licensing authorities. **Committee Member Wu** added that a lot of things have changed from when the recommendations were first drafted and noted that he had a lot of recommended modifications that he will submit as his own personal comment.

Chair Rahn agreed with **Committee Member Wu** and urged the other committee members to submit public comments before the public comment period ends if they have additional things they would like to see in the licensing authorities' regulations.

Committee Member Nevedal requested clarification if one of the cultivation subcommittee's recommendations was amended by the Committee or after the recommendation was already approved. **Chair Rahn** responded that the recommendation was amended by the Committee, then approved and will be submitted as currently written if the Committee decides to move forward with the public comment.

Committee Member Huffman requested clarification on how some recommendations were chosen to be included and others not. **Chair Rahn** clarified that the recommendations listed on the handout were the ones the Committee approved and adopted and stated that if there are recommendations that either were not approved by the Committee or if there are additional recommendations that members felt should be reviewed by the licensing authorities, the members can submit those separate from the Committee as their own personal comment or as a representative of their organization.

Committee Member Cermak stated that there were four recommendations from the public health subcommittee that were not voted on due to time constraints and asked if those recommendations can be moved forward on behalf of the subcommittee.

Chair Rahn responded that those recommendations were statutory and stated that all recommendations that were statutory were pulled and only recommendations that were regulatory were sent to the licensing authorities for review.

Committee Member Cermak stated that due to restrictions under Bagley-Keene, the public health subcommittee was not as effective as its members hoped to be, trading transparency for efficiency and asked if he would need to submit the four statutory recommendations as his own personal comments or as the chair of the public health subcommittee. **Chair Rahn** responded that he would be submitting the comments as an individual not as the chair since the subcommittee did not get a chance to meet again and discuss the four recommendations.

Committee Member Ferro expressed appreciation to Bureau staff for compiling the report and responses from the licensing authorities.

Public Comment: 31 Comments

Paul Hansbury: Mr. Hansbury thanked the Committee for their work and stated that the Chair's report is the closest thing to a consolidated document from all three licensing authorities. He

agreed with **Committee Member Cermak's** comment that the subcommittees did not have enough time in their meetings to go over everything and expressed concern that amendments in the readopted emergency regulations—namely the prohibition of businesses not being in private residences—was not brought up to the Committee to discuss before the readopted regulations were released.

Joshua Jenkins: Mr. Jenkins expressed concern that the Bureau was not adhering to Business and Professions Code section 16102, that states military veterans do not pay fees typically associated with the startup of a business in sales outside of alcohol.

Mark Whitlow: Mr. Whitlow disagreed with the Bureau's response regarding the expiration of testing results of cannabis and cannabis products and stated that testing results do not have a timeframe and cannot expire.

Public Commenter: Commenter stated that manufacturers should be responsible for packaging products in child-resistant packaging, distributors and manufacturers should be able to put an initial label on products prior to the testing being completed, and medical cannabis retailers be able to deduct the amount of tax paid in advance on donated cannabis to compassionate care programs.

Joseph Airone: Mr. Airone expressed concern that none of the Committee's recommendations on compassionate care programs was addressed in the licensing authorities' regulations and stated that this topic is very important, and many patients' lives are on the line and in desperate need of free cannabis.

Scott Tyler: Mr. Tyler asked that more compassion should be involved in the cannabis industry and there should be more discussion about helping disadvantaged groups have adequate access to medication.

Neil Yarborough: Mr. Yarborough asked the Committee to think about how compassionate care programs have helped veterans like himself function in society and how detrimental it will be if compassionate care programs go away.

Teri: Commented that the requirement that a licensed retailer's address be printed on a receipt poses a safety concern and would like the regulations to be changed to only have the license number or the general area that the business is located.

Sabrina Fendrick: Ms. Fendrick agreed with earlier comments suggesting that child-resistant packaging be handled at the manufacturing level and not in the exit bags. She also added that retailers should be able to buy samples of products they are interested in selling.

Troy Lawrence: Mr. Lawrence suggested that the regulations regarding delivery be more simple and transparent and allow delivery to be more accessible to the patients who need medication.

Adam Villarreal: Mr. Villarreal commented that the regulations for delivery are more stringent than regulations for opioid medications.

Hannah Nelson: Ms. Nelson agreed with committee members' comments that there have been significant changes since the recommendations were drafted in March and suggested that there be some way for the Committee to integrate more current information into the Committee's public comment.

Ellen Komp: Ms. Komp expressed concern that a lot of the Committee's recommendations, especially those related to microbusinesses, were not addressed in the readopted emergency regulations or the proposed regulations as well as the raising of dosage limits and recommendations drafted by the public health and youth subcommittee.

Max Mikalonis: Mr. Mikalonis requested that the Committee have future discussions about delivery vehicle requirements such as vehicle weight, two-wheel delivery, and licensee premises

addresses being listed on delivery receipts. He also requested that the Committee look at one of the cultivation recommendations regarding light deprivation facilities that was addressed in CDFA's regulations but with the opposite intent.

Pearl Martin: Ms. Martin emphasized the importance of retailers being allowed to give free samples to customers. She suggested that the state marijuana identification card requirement for free cannabis goods be removed and agreed with other commenters that child-resistant packaging should be handled at the manufacturing level and not need to be placed in child-resistant exit packaging.

Susan Tibbin: Ms. Tibbin expressed concern that not enough was being done for small operators in the northern counties in relation to microbusinesses and reiterated the need for a home business license.

Trish Kamalia: Ms. Kamalia agreed with the recommendation that child-resistant packaging be handled at the manufacturing level and not at the retail level with exit bags.

John Brower: Mr. Brower requested the Committee review the cultivation recommendation and the definition of "outdoor" and stated that the discussion wrongly included light deprivation as an outdoor cultivation type.

Rich Miller: Mr. Miller thanked the Committee for their hard work and stated that the exit packaging requirement is an environmental problem and stated that labeling should also be handled at the manufacturing level.

Matthew Pasquale: Mr. Pasquale commented that free samples should be allowed as well as compassion programs. He suggested that delivery hours should be changed to 11:00 PM or 12:00 AM for people who do not work a regular nine-to-five shift. He also added that exit packaging should be removed and that distributors and manufacturers handle all labeling and packaging.

Deanna Garcia: Ms. Garcia agreed with other commenters that child-resistant exit packaging at the retail level is unnecessary and stated that manufactured cannabis products should be in child-resistant packaging but cannabis flower should not. She also added that the state marijuana identification card requirement for compassion programs should be removed and a doctor's recommendation should be sufficient.

Ron Richards: Mr. Richards expressed support for the exit bag requirement at the retail level and stated that businesses can use environmentally-friendly, reusable exit packaging which would help cut down on waste and environmental impact.

Paul Hansbury: Mr. Hansbury stated that, regarding outdoor cultivation, the canopy should be defined by the drip-line of the plant, not the plant count. He added that the cultivation tax for compassionate use should be able to be refunded like the refunds for the excise and sales taxes and requested clarification of the S-type license and storage only center license would be allowed in a microbusiness. He also commented that there needs to be consideration of legacy operators when discussing social equity programs, at least 24-hour notice from licensing authorities prior to inspections, and delivery employees be allowed to have extra inventory in the vehicle in case a new order comes in while they are away from the licensed premises. He also requested the Committee review the recommendation that security measures be handled by local authorities rather than the State.

Ray Purs: Mr. Purs commented that some local jurisdictions are adhering to Business and Professions Code section 16102 that states military veterans do not pay fees typically associated with the startup of a business in sales outside of alcohol and wanted to know if the State will be adhering to that section as well. He also suggested that a state program be created where

cannabis companies making a large profit are linked with social equity applicants to provide funding.

Asst. Chief Counsel Colson reminded commenters that the Committee is hearing public comments on the Chair's report and the status of the Committee's approved recommendations and that there will be time for public comments on items that appear later on the agenda as well as a public comment period for items not listed on the agenda.

Susan Tibbin: Ms. Tibbin reiterated that the definition of canopy needs to be changed from plant count to the drip line of the mature cannabis plant. She also agreed with earlier comments that legacy farmers need to be included in the category of social equity applicants.

Nidia Holmes: Ms. Holmes expressed support for compassion programs that help patients receive the medication they need and commented that customers need to be able to sample products at the retailer.

Caity Maple: Ms. Maple agreed with earlier comments suggesting that the delivery hours be extended to accommodate individuals who do not work a regular nine-to-five shift and agreed that premises addresses should not be included on delivery receipts for safety reasons.

Joe Lindsey: Mr. Lindsey expressed concern about the increase in value amount that a delivery employee can have during delivery from \$3,000 to \$10,000 and stated that this is a security issue that now makes delivery drivers and vehicles targets for theft and robbery.

Mark Carrillo: Mr. Carrillo thanked the Committee for the work and asked that they continue to keep pushing these issues to the licensing authorities. He added that the delivery hours as they stand right now do not work as there are people who wake up in the middle of the night that need medication and are not able to access it.

Paul Hansbury: Mr. Hansbury asked why the renewal fees for an annual license are the same as the original license fee and suggested that if there are no structural modifications from the previous year, the licensing fees be reduced by 50 percent.

5. Discussion and Possible Action regarding Submission of the Advisory Committee's Adopted Recommendations as Public Comment on the Proposed Regulations of the Bureau of Cannabis Control, California Department of Food and Agriculture, and California Department of Public Health

Committee Member Huffman motioned the Committee to submit all the adopted recommendations as a public comment to the Bureau. **Committee Member Cermak** seconded the motion

Asst. Chief Counsel Colson asked **Committee Member Huffman** if she meant submitting to just the Bureau or to all three licensing authorities. **Committee Member Huffman** stated that the recommendations should be submitted to all three licensing authorities and put on the official record.

Committee Comments:

Committee Member Lynch commented that the Committee has heard from numerous individuals about the importance of social equity, compassionate use, and public health and that these topics should be revisited and addressed to the full extent of the Committee's recommendations.

Committee Member Nevedal requested clarification if the recommendations would be submitted to all three licensing authorities. **Chair Rahn** answered that they would.

Committee Member Cermak requested clarification if all the subcommittees' recommendations will be submitted or only those that were approved by the full advisory committee. **Committee Member Huffman** responded that all the subcommittees' recommendations should be submitted even if they were not voted on by the full advisory committee.

Committee Member Lynch agreed that it would be a valuable submission to include all the subcommittees' recommendations but also noted that is different than what the Committee has already voted on and is compiled in the Chair's report.

Committee Member Ferro agreed with **Committee Member Lynch** and clarified that the recommendations that are before the Committee are those that are regulatory changes, not statutory changes, and emphasized the importance of submitting the regulatory recommendations to the licensing authorities for review.

Chair Rahn clarified that there is a difference between the recommendations voted on in the subcommittees and the recommendations that were approved by the full committee and the Chair's report consists of recommendations that were presented and voted on by the full committee. He repeated that if there were recommendations that should be included but did not get presented to or approved by the full committee, members can submit those recommendations as individual comments on behalf of themselves or their organizations.

Committee Member Ferro commented that the Committee did not have the opportunity to hear all the public testimonies submitted to each subcommittee and suggested that recommendations which were not heard by the full committee but were adopted by the subcommittees be included in the Committee's public comment to the licensing authorities.

Committee Member Huffman agreed with **Committee Member Ferro** and added that there was no harm in adding in recommendations that the subcommittees drafted but that the Committee did not have a chance to hear or vote on.

Committee Member Cermak commented that, regarding the public health subcommittee's recommendations, there were several that were statutory and while one of the recommendations was voted on by the Committee, the others were not because time was limited for each subcommittee to present their recommendations. He added that he would like a distinction to be made between recommendations that were adopted by the Committee and recommendations that the Committee did not hear but were voted on by the subcommittees.

Asst. Chief Counsel Colson clarified that the agenda item is discussing the regulatory recommendations that were adopted by the Committee and stated that the Committee heard all the regulatory recommendations and the ones that were not adopted have already been determined by the Committee to not be appropriate to put forward to the licensing authorities. She added that the Committee approved to combine all statutory and non-regulatory recommendations into a letter to the legislature written by the committee chair.

Committee Member Bulbulyan commented that the focus was shifted to regulatory recommendations because it was determined that the Committee could have more influence over the regulatory recommendations which the licensing authorities have the capability to change but also agreed that it would not hurt to submit all the recommendations including the ones that the subcommittees approved but were not heard by the full committee.

Chair Rahn responded that the point of adopting the recommendations by the full committee was to narrow down the recommendations to those that were collectively agreed upon by the twenty-two members on the Committee. He reiterated that if there were recommendations that

the Committee did not approve that members feel should be submitted to the licensing authorities, they can still do so as an individual or a representative of their organization.

Committee Member Huffman clarified that she was not suggesting that recommendations that the Committee reviewed and did not approve be included in the public comment but rather the recommendations that the Committee did not have the chance to review and vote on.

Chair Rahn responded and stated that the only recommendations that the Committee did not review were ones that were not regulatory or statutory in nature and the Committee approved that those recommendations be sent in a separate chair's letter to the legislature.

Committee Member Cermak stated that there was a compassionate use recommendation which was statutory that the Committee did vote on and approve.

Asst. Chief Counsel Colson clarified that the Committee did vote to handle the statutory and non-regulatory recommendations separately in a letter to the legislature drafted by the chair and vice-chair.

Chair Rahn commented that the Committee is trying to affect the items that they have the most influence over, which are regulatory recommendations. He added that all the statutory recommendations the subcommittees drafted will be included in the letter to the legislature and that only recommendations that the Committee voted to not move forward will not be included in the public comment to the licensing authorities.

Committee Member Huffman amended her motion to exclude recommendations that were reviewed by the Committee and not approved. **Asst. Chief Counsel Colson** requested clarification if the motion was to now be that all the adopted recommendations be submitted and that they be submitted to all three of the licensing authorities. **Committee Member Huffman** replied that was correct.

Committee Member Cermak seconded the amended motion.

Public Comment: 3 Comments

Paul Hansbury: Mr. Hansbury commented that the Committee needs to consider the interpretation of these regulations and statutes and referred to the recommendation regarding microbusinesses and security measures, stating that the recommendation did not get enough votes because there was too much confusion surrounding the definition of a microbusiness and requests that the recommendation be reviewed again now that there is more understanding of what a microbusiness is.

Public Commenter: Requested that the chair letter to legislature be made public prior to the Committee submitting it.

Richard Miller: Mr. Miller stated that when Proposition 64 was passed, no one realized there would be three separate state agencies regulating commercial cannabis businesses and that it was imperative that the advisory board and its comments should reflect the will of the people and be submitted to all the agencies involved.

Additional Committee Comments: 3 Comments

Committee Member Cermak asked if the public recommendation stating that the licensing authorities create a special state and local licensing process for compassionate use programs was not addressed in the current or proposed regulations because it was statutory. **Chair Rahn** replied that there could be a variety of reasons why an adopted recommendation was not addressed and stated that submitting the adopted recommendations as a public comment will require the licensing authorities to provide a response to each recommendation listed.

Asst. Chief Counsel Colson commented that all three licensing authorities provided a document called the Initial Statement of Reasons (ISOR) in the proposed regulations. She also added that for the emergency regulations package, a Finding of Emergency document was included as well. She clarified that both documents explain the regulatory language and why the regulatory language was needed, which could answer some of the Committee's questions about why the licensing authorities did or did not address certain recommendations. Ms. Colson added that once a recommendation comes before the licensing authorities through the public comment period, the licensing authorities will specifically respond to each comment and recommendation as part of the rulemaking process for the proposed regulations.

Roll call vote was taken, the amended motion to submit all the adopted recommendations as a public comment to all three licensing authorities passed on a 18-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelberg-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

8. Discussion and Possible Action on the Advisory Committee's Annual Report

Deputy Chief Ramil explained that in Business and Professions Code section 26014, subsection (c), the Committee is required to “publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the licensing authorities.”

Committee Comments: 32 Comments

Committee Member Cermak asked who would be responsible for writing the annual report. **Chair Rahn** responded that he and **Vice-Chair Todd** would be responsible for working with Bureau staff to draft the report.

Committee Member Cermak asked if there will be an opportunity for the committee members to provide dissenting opinions to the report.

Chair Rahn responded that the annual report will be a collaborative effort between all committee members and Bureau staff and proposed the idea of creating a subcommittee of members to draft the annual report and present it to the Committee at the next scheduled meeting.

Asst. Chief Counsel Colson responded and clarified that if a subcommittee is created with more than two committee members on it, that meeting will be subject to Bagley-Keene rules meaning that there will need to be a 10-day notice.

Committee Member Nevedal asked if it would be easier if each subcommittee chair put together a report for each subcommittee to help **Chair Rahn** and **Vice-Chair Todd** draft the annual report.

Chair Rahn agreed with **Committee Member Nevedal** and stated that the report would not be a reiteration of recommendations from the subcommittees but a summary of all the discussions they have had.

Committee Member Huffman commented that, in the annual report, she would like the Committee to address matters that may fall out of the scope of the advisory committee and out of the purview of regulatory processes. She also stated that she believed three licensing authorities is too many and they should be consolidated into one state agency.

Chair Rahn agreed with **Committee Member Huffman** and stated that the annual report should not just contain what the Committee has done in the past year but also make recommendations about the role of the Committee moving forward and how the Committee can continue to advise the licensing authorities on matters such as social equity and compassionate use.

Committee Member Bulbulyan asked if another advisory committee meeting should be scheduled and include only one agenda item to discuss all things cannabis in California. **Chair Rahn** responded that another committee meeting cannot be created but he was not opposed to the idea of creating a subcommittee to meet regarding the “big picture” items that are germane to the annual report.

Asst. Chief Counsel Colson clarified that if the subcommittee is subject to Bagley-Keene rules, the agenda item will still need to be specific enough that the public will be on notice about the topics that will be discussed. **Committee Member Bulbulyan** asked if “State of the Industry” was specific enough. **Asst. Chief Counsel Colson** responded that would not give everyone sufficient information to determine whether the subcommittee would be talking about items that matter to them.

Committee Member Stephenson agreed with **Committee Member Huffman** and **Committee Member Bulbulyan** and added that he has found it frustrating that the issue of banking for commercial cannabis businesses has not been addressed and that maybe the Committee needs to be the one to start moving these issues forward.

Committee Member Huffman suggested that a list of specific issues should be created that includes taxation, a statewide equity program, and any other issues that members feel need to be discussed on a broader scale.

Chair Rahn suggested that the annual report subcommittee that will be created today draft the report and present it at the next committee meeting in September and then present the final report at the November committee meeting.

Committee Member Wu expressed concern that the Committee spends too much time on statutory issues which are outside of their ability to influence and commented that there should be more focus on issues which the Committee can affect.

Committee Member Bulbulyan commented that he believed that the purpose of the Committee was to advise the three licensing authorities on best practices and the implications of the regulations they create, not necessarily on the language of the regulations itself.

Committee Member Nevedal responded to **Committee Member Bulbulyan** and stated that there were certain things that were discussed in the subcommittees and that the Committee has heard from public commenters numerous times about compassion care programs, social equity, help for small farmers, and that while there is legislation in the works for some of these issues, the Committee is not aware or is not discussing these matters to the extent that is needed.

Committee Member Cermak stated that the Committee has the capacity to advocate for statutory changes where the licensing authorities do not.

Chair Rahn asked the Committee if a subcommittee be created to draft the annual report and that the chairs of each subcommittee bring a summary report to the September committee meeting to be included in the final annual report.

Committee Member Ferro requested clarification on how detailed the subcommittee chairs' reports needed to be. **Chair Rahn** responded that the reports should not be too long, maybe two to five pages maximum.

Committee Member Bulbulyan requested clarification on the timeline for the annual report.

Chair Rahn answered that the subcommittee chairs will need to have their reports ready by the September advisory committee meeting and the annual report subcommittee will present their draft of the annual report at the September advisory meeting as well. The annual report subcommittee will then incorporate the chairs' reports into the final draft of the annual report and present that at the November advisory meeting. The annual report will then be submitted January 1, 2019.

Committee Member Nevedal asked if it would be easier to just resubmit the chairs' reports that were drafted after each subcommittee hearing instead of creating a new report. **Chair Rahn** responded that the chairs could copy and paste their earlier reports if they wanted to.

Committee Member Huffman motioned that the subcommittee chairs submit their summary reports to the Committee at the next advisory committee meeting and then the chair appoint the annual report subcommittee. **Committee Member Sweeney** seconded the motion.

Committee Member Bulbulyan requested clarification if the annual report would just be limited to the subcommittee recommendations that were adopted by the Committee or contain the full reports from each subcommittee. **Chair Rahn** clarified that the annual report subcommittee will take all the chairs' summary reports and incorporate them along with information from subsequent meetings.

Public Comment: 2 Comments

Public Commenter: Requested that a separate subcommittee be created to address broader issues that the subcommittees missed.

Public Commenter: Suggested that the Committee submit the annual report to the legislature and all other government agencies involved in the cannabis industry.

Roll call vote was taken, the motion that the subcommittee chairs submit their summary reports to the Committee at the next advisory committee meeting and that the chair appoint the annual report subcommittee passed on a 18-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelberg-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

Chair Rahn called for a lunch break at 12:05PM. The Committee meeting was called back into session at approximately 1:00 PM.

6. Discussion and Possible Action on Section 5416 (d) of the Bureau of Cannabis Control's Proposed Regulations Pertaining to Delivery

The Committee reviewed section 5416 (d) of the Bureau's proposed regulations which states, "A delivery employee may deliver to any jurisdiction within the State of California."

Committee Comments:

Committee Member Woolsey commented that the City of San Jose opposes section 5416 (d) because it allows delivery operators to bypass any local regulations regarding cannabis delivery businesses. He added that while it is unfortunate that individuals live in a cities and counties where delivery has been outright banned, Proposition 64 did allow for local jurisdictions to have control over how many and what type of businesses they will allow in their limits.

Committee Member Nevedal asked if there is any other product that is currently prohibited from being delivered in California and expressed concern for areas that are "cannabis and medical islands" where patients and consumers do not have access because deliveries are banned in their cities and counties and are forced to turn to the illicit market.

Committee Member Yu agreed with **Committee Member Nevedal** and added that the intent and will of Proposition 64 was to ensure that there's access to cannabis for adults and medical patients.

Committee Member Heidelberg-Teramoto agreed with **Committee Member Yu** and **Committee Member Nevedal** and added that some consumers are intimidated and wary of entering a storefront dispensary and that delivery services provide them another option to buy from legal businesses versus the illicit market.

Committee Member Woolsey responded to all three previous speakers and stated that Proposition 64 does want the public to have access to cannabis, subject to local control, and that cities and counties should work toward developing a delivery program in their jurisdictions without the State enacting regulations that bypass local control.

Committee Member Bulbulyan commented that local jurisdictions are causing a bigger bottleneck in the industry due to their moving slowly regarding allowing businesses and added that if delivery businesses that are licensed by the local jurisdiction and the State will have oversight by the local jurisdiction where their permit is located so there really is no public safety issue with allowing licensed deliveries to deliver in any jurisdiction.

Committee Member Cermak asked if there will be lawsuits if the Bureau removes local control as it relates to delivery and why it is okay to have local control for storefront dispensaries but not for delivery businesses. **Committee Member Bulbulyan** responded that the issue of local control is not on the business aspect because there is oversight for the delivery businesses by the local jurisdiction where the permit was issued. The issue is if local jurisdictions have control over whether their residents can accept delivery of cannabis products.

Committee Member Ferro commented that the bigger problem is getting the local jurisdictions that have banned commercial cannabis activity to start allowing businesses within their cities, counties, and towns and adds that if elected officials in these jurisdictions are not allowing businesses to operate as Proposition 64 allows, they should be voted out by the residents.

Committee Member Huffman commented that there are some issues, like delivery, that would be better handled at the State level versus the local level and suggested that there be some form of state issued permit that allows operating instead of having to apply for a permit at the local level and then the state level.

Committee Member Stephenson commented that reluctance from local jurisdictions to allow storefront dispensaries comes from a need to protect their community's image and allowing deliveries helps to combat that.

Committee Member Nevedal stated that the topic of delivery is not a local control issue because these businesses will already be licensed at the local and state level and if licensed delivery services cannot use public roads to deliver legal cannabis products to consumers, it sets a dangerous precedent for transporting of cannabis goods, not just for delivery employees but for licensed distributors as well.

Committee Member Bulbulyan commented that section 5416 (d) is favorable to jurisdictions that do not want any businesses operating in their limits because it allows a resident to still have access to cannabis and cannabis products from neighboring jurisdictions while allowing city officials to not have any cannabis businesses operating in their limits.

Committee Member Heidelberg-Teramoto agreed with **Committee Member Nevedal** regarding the implications of restricting delivery and stated that she has heard of instances where distributors transporting cannabis goods were pulled over and arrested because they were moving through jurisdictions where delivery was not allowed.

Committee Member Ferro agreed with **Committee Member Heidelberg-Teramoto** and added that a lot of cities do not have the economic ability to research and formulate their own guidelines for cannabis businesses and are waiting for some guidance from the State.

Committee Member Woolsey agreed with **Committee Member Bulbulyan** that allowing delivery services would benefit the local jurisdictions that do not want to have cannabis businesses in their communities without feeling as if they have deprived their residents of access to cannabis.

Chair Rahn commented that the issue with this section boils down to local control and stated that he and **Committee Member Woolsey**, being two representatives of local government, are in the minority when it comes to the viewpoint of local control and local authority.

Committee Member Woolsey agreed with **Chair Rahn** and stated that he believes everyone should have access, but Proposition 64 does grant local jurisdictions the power to limit or ban commercial cannabis activity in their community and if residents of those communities do not agree with the local authority, they either need to vote those individuals out or move to a jurisdiction that does allow commercial cannabis activity.

Committee Member Peck commented that tribal members on reservations or living on fee land held in trust by the federal government do not have access to cannabis but are paying taxes for the land they live on.

Committee Member Huffman commented that if a jurisdiction does not want commercial cannabis businesses in their communities, that is their choice, but they should not be able to restrict their residents' access to it from jurisdictions that are allowing businesses. She adds that this is a human rights issue, not a local control issue, because people are being denied access to medication that they need.

Committee Member Stephenson agreed with **Committee Member Huffman** and expressed concern that local jurisdictions want to restrict consumers ability to purchase a commodity that is licensed and recognized by the State of California.

Committee Member Bulbulyan commented that there is no difference if a single individual went to a neighboring jurisdiction that allows commercial cannabis business, bought product, and brought it home and a delivery service doing the same thing. He added that there were more

pressing issues to handle and that the local jurisdictions don't have the right to restrict access to their residents.

Chair Rahn commented that allowing delivery in any jurisdiction is a public safety issue just as any other high-risk delivery or high-risk occupation where individuals are driving around with large sums of money are targets for crime. He added that if the legislature passes a bill that would allow deliveries in any jurisdiction, local authorities would enact the law, but the State should not preemptively try to remove local control that was granted by the legislature through Proposition 64.

Committee Member Ferro commented that a lot of the cities whose citizens were overwhelmingly in support of Proposition 64 are still banning all commercial cannabis activities and this discussion would not be happening if more of those cities who were in support of Proposition 64 would allow commercial cannabis businesses to operate.

Committee Member Stephenson suggested that if a company was delivering product in a jurisdiction that does not allow commercial cannabis activity, restrict the number of orders that can be delivered at one time.

Committee Member Lynch commented that there is an imbalance between local control and individuals' right to access and that the intent of voters when passing Proposition 64 was not to restrict access to those who need it.

Committee Member Woolsey commented that if tax revenues only go to the city where the delivery originated and a delivery vehicle is robbed while delivering in a jurisdiction that has banned delivery, it becomes that jurisdiction's public safety problem and they are not getting any of the tax revenue from the delivery sales. He added that Proposition 64 was passed with the knowledge that there will be two licensure processes: the local level and the State level and that it's interesting that the public wants a statewide program when it is beneficial to them and a local-specific program when it is beneficial to them.

Committee Member Woolsey motioned for the Committee to recommend to all licensing authorities that section 5416 (d) be removed from the Bureau's regulations. **Chair Rahn** seconded the motion.

Chair Rahn commented that he believes the discussion of allowing deliveries in all jurisdictions should be left up to the legislature to handle and that allowing deliveries will unfortunately result in some cities seeking litigation which is a waste of resources and time.

Committee Member Cermak commented that he is convinced by both sides and asked if

Committee Member Woolsey would accept a friendly amendment to his motion which would exempt delivery of medical cannabis from being banned by local jurisdictions.

Committee Member Woolsey answered that he would not accept the friendly amendment and stated that local jurisdictions should be able to determine what happens in their limits regarding medical and recreational commercial cannabis activity.

Committee Member Bulbulyan stated that there was no difference between a delivery driver stopping in a jurisdiction for gas or something to eat and a delivery driver completing a delivery. The commercial cannabis activity occurs in another jurisdiction and all that is happening during the delivery is a drop off. He added that many voters did not really know how to participate or get involved when Proposition 64 was introduced so they did not understand what was going to happen. Now that they have had a chance to see the regulations in action, they can raise these issues to the authorities' attention.

Committee Member Huffman motioned for the Committee to support section 5416 (d) of the Bureau's proposed regulations. **Chair Rahn** asked for clarification if a second motion can be

made if there is already a motion and a second on the table. **Asst. Chief Counsel Colson** clarified that it would be up to the committee chair how to proceed.

Committee Member Woolsey asked if there was a way to have public comment on both his original motion and **Committee Member Huffman's** substitute motion. **Committee Member Huffman** responded that the substitute motion would need to be defeated, then the Committee could discuss the original motion.

Committee Member Bulbulyan seconded **Committee Member Huffman's** substitute motion. **Committee Member Huffman** commented that the issue is not a struggle of power between local jurisdictions and the voters of Proposition 64, but rather the issue of human rights and ignoring the will of the people who voted in favor of Proposition 64 for the will of proponents such as League of Cities or the police chiefs of the various jurisdictions.

Chair Rahn disagreed with **Committee Member Huffman** and added that local control is about representing the people. He stated that as an elected official, he is responsible for representing the will of those citizens who elected him and he is aware that other local jurisdictions made decisions without polling their communities, but some did and the decisions they make reflect what their residents wanted.

Committee Member Huffman responded that the people who **Chair Rahn** represent might not represent the voters who voted for Proposition 64. **Chair Rahn** agreed and stated that although his city did vote to pass Proposition 64, it was not by a large majority, which places him and other elected officials in a precarious situation on trying to balance and fairly represent all the needs of their residents.

Chair Rahn commented that the Committee is here in an advisory capacity to the three licensing authorities and was purposefully constructed to include many different perspectives on issues. He emphasized that this advisory committee meeting is different than the public regulatory hearings the licensing authorities are currently conducting and that the public should understand that the public comments made here are not being recorded as part of the formal rulemaking process.

Public Comment:

Rich Miller: Mr. Miller commented that the delivery is vital for patients to access the medication they need and stated that delivery should be controlled by the city where they are located not where the delivery is made.

Caity Maple: Ms. Maple commented that over 1300 letters in support of section 5416 (d) have been sent to the Bureau and stated that local jurisdictions did not have the authority to ban deliveries in their cities and that the continuance of banning deliveries will only drive consumers to the illicit market.

Public Commenter: Suggested that if a dispensary delivers outside of the city where they are located, the city where the delivery occurs receives the tax revenue. Also added that delivery locations and routes are recorded by GPS tracking devices so there would not be an issue of a driver being on a route that is not on the manifest.

Amanda Naprawa: Ms. Naprawa commented that changes to State law should not be handled at the regulatory level and should be left up to the legislature.

Susan Tibbin: Ms. Tibbin commented that the citizens of the State of California who passed Proposition 64 should have ready access to their medication.

Troy Lawrence: Mr. Lawrence commented that local control is zoning issues, not prohibition or restriction of access to medication.

Ellen Komp: Ms. Komp agreed that the issue of delivery does not need a legislative fix and can be handled through regulations. She repeated earlier comments stating that local control is over land use not access.

Adam Villarreal: Mr. Villarreal urged the Committee to understand that this issue is not about local control but about medical patients' ability to access medication and that no other commodity is regulated as strictly as cannabis.

Andrew Antwi: Mr. Antwi, on behalf of the City of Beverly Hills, opposed section 5416 (d) of the Bureau's proposed regulations and stated that this section directly contradicts the Medicinal and Adult Use Cannabis Regulatory and Safety Act (MACURSA) and would be challenged legally if not removed.

Max Mikalonis: Mr. Mikalonis expressed support for section 5416 (d) and stated that local jurisdictions that have banned deliveries are infringing on the rights of individuals under Proposition 64 to access cannabis.

Jackie McGowan: Ms. McGowan commented that she lives in Sacramento and drives two hours to Oakland once a month to buy from a dispensary and that while she is lucky that she can make that trip, others are not and depend on delivery services to have access to their medication.

Anne Kelson: Ms. Kelson commented that the State already has guidelines and rules for delivery services, so safeguards are in place even if local jurisdictions have not had a chance to create their own.

Joseph Airone: Mr. Airone commented that this is an issue of patients' rights and patients' access to medication and that local jurisdictions banning deliveries was not the original intention of the passage of Proposition 64.

Dan Georgatos: Mr. Georgatos suggested that an additional sentence be added to section 5416 (d) that says if delivering to a jurisdiction that regulates and permits commercial cannabis delivery, then that commercial cannabis licensee must comply with that local ordinance.

Michelle Disitzer: Ms. Disitzer commented that patients need to be able to access any brand, no matter how small or large.

Public Commenter: Stated that MAUCRSA granted local jurisdictions control over the origin of the delivery but not where delivery travels to or ends in. Local authorities should control commercial businesses, not consumer access.

Dale Schafer: Mr. Schafer commented that there is already a statute in place for immunity to drivers while delivering on public highways and that could work for deliveries across the state. He adds that if authorities cannot make this work, the illicit market will continue to thrive.

Eliza Maroney: Ms. Maroney pointed out that for some patients, it is not just physical limitations but also fiscal limitations that may hinder their ability to access medication if their city does not allow delivery.

Sean Kiernan: Mr. Kiernan commented that entities like the League of Cities who are fighting to restrict access are doing so at the expense of veterans who have served this country and are in desperate need of the medication.

Paul Hansbury: Mr. Hansbury commented that allowing licensed delivery services to operate does not take away control from local jurisdictions because these entities will be regulated by the city where they are located and by the State.

Public Commenter: Stated that veterans make up seven percent of the national population but account for twenty percent of national suicide rate and that if access to cannabis is restricted those numbers will continue to rise.

Public Commenter: Expressed concern that the Bureau’s website as well as California Department of Food and Agriculture’s (CDFA) website does not have a reliable way for investors to find licensing businesses.

Additional Committee Comments:

Committee Member Cermak stated that he will be abstaining from voting because he has not heard a compromise that satisfies both local control concerns and compassionate use concerns.

Committee Member Bulbulyan commented that local control should be over setting up businesses and collecting tax revenue and allowing delivery across jurisdictions does not take away local control.

Committee Member Stephenson commented that if cities did not want to allow deliveries, they could levy a tax amount that they see fit as a compromise.

Committee Member Huffman commented that sometimes a compromise cannot be reached and this is one of those situations. She added this is an issue of helping people who are in need and urged the Committee to support the section 5416 (d) as written in the Bureau’s proposed regulations.

Asst. Chief Counsel Colson requested clarification that the motion on the table was to recommend to the Bureau to keep section 5416 (d) as written. **Committee Member Huffman** responded that was correct.

Roll call vote was taken, the motion to recommend to the Bureau to keep section 5416 (d) of the proposed regulations passed on a 13-4 vote. 1 committee member abstained.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak		✓			
Matt Clifford			✓		
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman	✓				
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch	✓				
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck	✓				
Matt Rahn		✓			
Keith Stephenson	✓				

James Sweeney	✓	
Tamar Todd		✓
Helena Williams	✓	
David Woolsey	✓	
Ben Wu	✓	
Beverly Yu	✓	

7. Discussion and Possible Action on Section 5500 of the Bureau of Cannabis Control's Proposed Regulations Pertaining to Microbusiness

Committee Comments:

Committee Member Nevedal commented that microbusinesses were intended to be a pathway for small businesses, legacy farmers, and family businesses to enter into the legal market but the current structure of microbusinesses does not benefit the mentioned entities as well as it should.

Chair Rahn commented on the difficulty in establishing what a microbusiness is and how the statute can be interpreted in different ways which causes agencies like the Bureau to have to implement the intent which may be different from what was originally thought.

Committee Member Cermak asked if the microbusiness subcommittee has any suggestions on how to address these issues. **Committee Member Clifford** responded that the issue comes from imprecise language in the statute which has a cap of 10,000 square feet for cultivation activities in a microbusiness but no limits on manufacturing, retail, or distribution which is disadvantageous for small business owners.

Committee Member Nevedal agreed with **Committee Member Clifford** and stated that the original intention of Proposition 64 was not to be a catch-all for vertical integration.

Committee Member Cermak moved to recommend that the Bureau re-look at the regulations in order better serve what the Committee believed to be the original function of serving the small farmers and providing them access to the market. **Committee Member Clifford** seconded the motion.

Committee Member Bulbulyan requested clarification on what the motion entails. **Committee Member Cermak** responded that the purpose of the motion is to advise the Bureau to re-work regulations to favor the small farmer. **Committee Member Sweeney** asked if that is inclusive of home businesses. **Committee Member Cermak** responded that would be up to the Committee to decide.

Committee Member Nevedal commented that the Bureau's readopted emergency regulations prohibited cannabis business from being in private residences which also hindered existing business that have been operating from their homes for a long time.

Committee Member Bulbulyan commented that as it stands now, there is no difference between a small farmer getting a microbusiness license and a larger business becoming a microbusiness, and in some cases, a microbusiness license is not advantageous because of the restrictions on growth.

Committee Member Nevedal responded that businesses will need to decide if a microbusiness is the most efficient model and that the microbusiness license itself was meant more for the small cultivators.

Committee Member Bulbulyan commented that instead of putting restrictions on growth and profitability for all microbusinesses, focus should be on helping microbusinesses that include cultivation in their plans as a way of helping small farmers.

Public Comments:

Paul Hansbury: Mr. Hansbury repeated the need for a new home business license.

Susan Tibbin: Ms. Tibbin echoed Mr. Hansbury's comments regarding the need for a home business license and stated that California is a very large and diverse state and one size does not fit all when it comes to regulations.

Hannah Nelson: Ms. Nelson stated that for rural citizens trying to obtain a microbusiness license, finding a location that will meet the local land-use rules for their activities is difficult and suggested that microbusiness be allowed to use shared facilities or have multiple locations for the various activities.

Public Commenter: Commented that the microbusiness license was intended to create a level playing field for small farmers, not for corporations and suggested that regulators should follow the craft beer model in the liquor industry.

Public Commenter: Commented that the microbusiness license, with some work, could be the "California brand" someday and is a useful tool in bringing pre-existing operators into compliance and suggested setting a cap on growth of all activities under a microbusiness and calling it something else if a business exceeds that cap.

Paul Hansbury: Mr. Hansbury stated that the cannabis industry is not new, but newly legalized and that the regulatory framework should be for the established industry not the other way around. He repeated his earlier comments about the need for a separate home business license.

Ross Gordon: Mr. Gordon commented that the microbusiness licenses that have been issued have been to urban areas and that there needs to be access for rural cultivators to enter the market. He urged the Committee to re-look at the microbusiness subcommittee recommendation that stated that local jurisdictions could opt-out of security requirements mandated by the State.

Tim Blake: Mr. Blake echoed earlier comments that there needs to be more help for the smaller businesses to enter the legal market.

Hannah Nelson: Ms. Nelson suggested a distinction between a microbusiness with self-distribution versus a microbusiness with full distribution services, more tiers for the microbusiness fees, shared facilities tied to income caps, and removing insurance requirements for self-distribution businesses.

Susan Tibbin: Ms. Tibbin echoed earlier comments regarding the need for a home business license.

Paul Hansbury: Mr. Hansbury repeated earlier comments about the need for a home business license and stated that the license will bring back the sense of community in rural towns and cities.

John Brower: Suggested that the language for microbusiness be more specific to not give the idea that individuals are trying to operate large scale businesses from their kitchen tables.

Paul Hansbury: Mr. Hansbury stated that the current regulations in effect are hurting communities that have operated out of their homes for a long time.

Additional Committee Comments: 2 Comments

Committee Member Ferro asked for the motion to be repeated. **Deputy Chief Ramil** repeated that the motion was to advise the Bureau to re-work the regulations around microbusiness to favor small farmers, which was the original intent of Proposition 64.

Committee members **Huffman, Lynch, and Peck** left the meeting and quorum was maintained. Roll call vote was taken, the motion to recommend advising the Bureau to re-work the regulations around microbusiness to favor small farmers which was the original intent of 64 passed on a 14-0 vote. 1 committee member abstained.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan			✓		
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelbach-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman				✓	
Catherine Jacobson				✓	
Arnold Leff				✓	
Kristin Lynch				✓	
Kristin Nevedal	✓				
Joe Nicchitta				✓	
LaVonne Peck				✓	
Matt Rahn	✓				
Keith Stephenson	✓				
James Sweeney	✓				
Tamar Todd				✓	
Helena Williams	✓				
David Woolsey	✓				
Ben Wu	✓				
Beverly Yu	✓				

Chair Rahn motioned to have the microbusiness subcommittee reconvene in the future to discuss issues surrounding microbusiness and report back to the Committee at the next meeting. **Committee Member Nevedal** seconded the motion.

Chair Rahn amended his motion to include extending specific invitations to public commenters who the Committee has heard from regarding microbusinesses to provide materials to the subcommittee. **Committee Member Nevedal** seconded the amended motion.

Committee Comments:

Committee Member Cermak suggested that the microbusiness subcommittee meet either before or after the full advisory committee meeting in Eureka in September. **Chair Rahn** responded that if the subcommittee wishes to do that, it can be arranged.

Committee Member Nevedal asked **Committee Member Sweeney** if he would make sure that the recommendations from the microbusiness subcommittee that were included in the statutory list be added in the subcommittee chair's report because a lot of the issues surrounding microbusinesses are statutory.

Chair Rahn suggested that the first half of the committee meeting in Eureka in September be dedicated to the microbusiness subcommittee and the second half of the day be the full committee meeting.

Committee Member Ferro stated that the subcommittees were made small out of necessity, not due to lack of interest by members, and suggested that more committee members be allowed to join the microbusiness subcommittee.

Chair Rahn asked who is currently on the microbusiness subcommittee that will be present at the next meeting in Eureka. **Committee Members Nevedal, Clifford, and Heidelberg-Teramoto** indicated they will all be present at the next meeting in Eureka. **Committee Members Ferro and Bulbulyan** indicated that they would like to be included in the microbusiness subcommittee for the next meeting. **Chair Rahn** amended his motion to state that the five mentioned individuals reconvene as the microbusiness subcommittee. **Committee Member Nevedal** seconded the motion.

Public Comment:

Paul Hansbury: Mr. Hansbury commented that he would hope the subcommittee discuss the idea of a home business license.

Roll call vote was taken, the amended motion to have five members reconvene for a microbusiness subcommittee meeting and extend invitations to specific public commenters to provide materials to the subcommittee passed on a 15-0 vote.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Avis Bulbulyan	✓				
Timmen Cermak	✓				
Matt Clifford	✓				
Bill Dombrowski	✓				
Jeff Ferro	✓				
Kristin Heidelberg-Teramoto	✓				
Eric Hirata	✓				
Alice Huffman				✓	
Catherine Jacobson				✓	

Arnold Leff	✓
Kristin Lynch	✓
Kristin Nevedal	✓
Joe Nicchitta	✓
LaVonne Peck	✓
Matt Rahn	✓
Keith Stephenson	✓
James Sweeney	✓
Tamar Todd	✓
Helena Williams	✓
David Woolsey	✓
Ben Wu	✓
Beverly Yu	✓

10. Future Agenda Items

Committee Comments:

Committee Member Nevedal requested that cannabis events be discussed at the next meeting.

Committee Member Bulbulyan requested that section 5418 (a) and 5418 (c) of the Bureau's proposed regulations be discussed.

Committee Member Cermak requested the Committee revisit the issue of advertising health claims for non-medical cannabis now that there is no longer any A or M designation until the point of sale.

9. Public Comment on Items Not on the Agenda

Public Comments:

Jackie McGowan: Ms. McGowan requested that the Committee discuss Track-and-Trace failure, specifically section 5050 (d) of the Bureau's proposed regulations and Phase 3 testing in licensed testing laboratories.

Preston: Commented that the six-plant minimum for personal use be changed to account for growing plants to eat as food.

Hannah Nelson: Ms. Nelson requested that the Committee discuss cannabis collectives and extending temporary licenses past the January 1, 2019 deadline listed in statute.

Jim Lewi: Mr. Lewi expressed support for the Committee to discuss cannabis events at the next meeting.

Paul Hansbury: Mr. Hansbury requested that the Committee discuss composite testing of cannabis goods.

Public Commenter: Agreed with Mr. Hansbury and added that composite testing will help alleviate financial issues for licensees and relieve the bottleneck in the industry by streamlining testing.

Savino Sguera: Mr. Sguera stated that testing laboratories should be able to sublet sample testing to other licensed laboratories.

Public Commenter: Commenter stated that the packaging requirements are onerous, and the testing requirements are exorbitantly expensive.

Rich Miller: Mr. Miller stated that shortages in supplies in dispensaries are due to local jurisdictions either not having the ability or not wanting to permit businesses and there needs to be help from the State in getting these jurisdictions to issue permits.

Tim Blake: Mr. Blake echoed earlier comments for the Committee to discuss cannabis events.

Taylor Blake: Ms. Blake also urged the Committee to discuss cannabis events at the next meeting and added that the Bureau should look at the wine industry on how to structure cannabis event guidelines and to allow event organizers to provide a list of all vendors and working staff the day of the event, rather than the 60 days prior as is currently in the regulations.

Max Mikalonis: Mr. Mikalonis supported earlier comments that the Committee discuss Track-and-Trace failure, specifically section 5050 (d) of the Bureau's proposed regulations and Phase 3 testing in licensed testing laboratories.

Randy Disitzer: Mr. Disitzer requested the Committee discuss expanding hours for cannabis deliveries and expanding the scope of events to include educational and informational events.

John Brower: Mr. Brower requested that the Committee discuss self-distribution operations at the next meeting.

Susan Tibbin: Ms. Tibbin urged the Committee to be mindful of the time constraints small businesses are under, many of whom have already had to closed because they were not able to enter the legal market.

Adjournment: 4:07 PM

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EXHIBIT 54

Assembly Bill No. 97

CHAPTER 40

An act to amend Sections 26040, 26043, 26050.2, 26055, 26062, 26062.5, 26210, 26240, 26242, 26244, 26246, and 26248 of, and to add Section 26031.5 to, the Business and Professions Code, to amend Section 11126 of the Government Code, and to add Section 34019.5 to the Revenue and Taxation Code, relating to cannabis, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 2019. Filed with Secretary of State July 1, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 97, Committee on Budget. Cannabis.

(1) The Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA generally divides responsibility for the state licensure and regulation of commercial cannabis activity among the Bureau of Cannabis Control in the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health. MAUCRSA authorizes each of these licensing authorities to suspend, revoke, place on probation with terms and conditions, or otherwise discipline licenses issued by the licensing authority and fine a licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. MAUCRSA makes a person engaging in commercial cannabis activity without a license required by MAUCRSA subject to civil penalties up to 3 times the amount of the license fee for each violation. MAUCRSA requires civil penalties imposed and collected by a licensing authority to be deposited into the General Fund, except as specified.

This bill would authorize a licensing authority to issue a citation to a licensee or unlicensed person for any act or omission that violates or has violated a provision of MAUCRSA or a regulation adopted pursuant to MAUCRSA, as specified. The bill would provide that these sanctions are separate from, and in addition to, all other administrative, civil, or criminal remedies. The bill would require moneys collected pursuant to this provision associated with the recovery of investigation and enforcement costs to be deposited into the Cannabis Control Fund, and would require an

administrative fine amount to be deposited directly into the Cannabis Fines and Penalties Account. The bill would require, except as provided, moneys collected pursuant to MAUCRSA as a result of fines or penalties imposed under MAUCRSA to be deposited directly into the Cannabis Fines and Penalties Account, and would require these moneys to be available, upon appropriation by the Legislature.

(2) MAUCRSA establishes in state government a Cannabis Control Appeals Panel to review specified decisions of licensing authorities appealed by any person aggrieved by those decisions. The Bagley-Keene Open Meeting Act requires, with specified exceptions for authorized closed sessions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body.

This bill would specify that the Cannabis Control Appeals Panel is established in the Business, Consumer Services, and Housing Agency. The bill would authorize the panel to hold a closed session for the purpose of holding a deliberative conference, as specified.

(3) MAUCRSA, until January 1, 2019, authorized a state licensing authority to issue a temporary license if specified conditions were met. MAUCRSA, until January 1, 2020, authorizes a licensing authority, in its sole discretion, to issue a provisional license if the applicant holds or held a temporary license for the same premises and the same commercial activity to be authorized by the provisional license, and if the applicant has submitted a completed license application to the licensing authority, including evidence that compliance with the California Environmental Quality Act is underway. MAUCRSA requires a provisional license to be valid for 12 months from the date it was issued, and prohibits a provisional license from being renewed.

This bill would extend the repeal date for the provisional license provisions to January 1, 2022. The bill would delete the requirement for a provisional license that an applicant holds or held a temporary license. The bill would revise the requirement for a provisional license that the applicant has submitted a completed license application to include evidence that compliance with the California Environmental Quality Act or local cannabis ordinances is underway, if applicable, as specified. By adding requirements to provisional license applications, which are required to be signed under penalty of perjury, the bill would expand the scope of the crime of perjury, and would thereby impose a state-mandated local program. The bill would require a provisional license to be valid for no more than 12 months from the date it was issued. The bill would authorize a licensing authority, in its sole discretion, to renew the provisional license until the licensing authority issues or denies the provisional license. If the licensing authority renews a provisional license, the bill would require the licensing authority to include the outstanding items needed to qualify for an annual license. The bill would authorize a licensing authority, in its sole discretion, to revoke or suspend a provisional license if the licensing authority determines the licensee failed to actively and diligently pursue requirements for an annual license. The bill would require a licensing authority to cancel a provisional license upon

issuance of an annual license, denial of an annual license, abandonment of an application for licensure, or withdrawal of an application for licensure. The bill would make related changes.

(4) MAUCRSA requires, not later than January 1, 2021, the Department of Food and Agriculture to establish a program for cannabis comparable to the National Organic Program and the California Organic Food and Farming Act. Existing law requires the department to be the sole determiner of organic designation and certification, unless the National Organic Program authorizes organic designation and certification for cannabis, in which case the department's authority would become inoperative and would be repealed on the following January 1. Existing law prohibits a person from representing, selling, or offering for sale any cannabis or cannabis products as organic or with the designation or certification established by the department, except as provided.

This bill, not later than July 1, 2021, would require the State Department of Public Health to establish a certification program for manufactured cannabis products comparable to the National Organic Program and the California Organic Food and Farming Act. The bill would remove the requirement that the Department of Food and Agriculture be the sole determiner of designation and certification, and would make the State Department of Public Health's authority inoperative if the National Organic Program authorizes organic designation and certification for cannabis. The bill would prohibit a person from representing, selling, or offering for sale any cannabis or cannabis products as organic or with the designation or certification established by the Department of Food and Agriculture or the State Department of Public Health, except as provided.

(5) MAUCRSA, until July 1, 2019, provides that the California Environmental Quality Act does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.

This bill would extend the repeal date of this provision to July 1, 2021.

(6) MAUCRSA authorizes the bureau, upon request by a local jurisdiction, to provide technical assistance, as defined, to a local equity program that helps local equity applicants or local equity licensees. MAUCRSA, upon appropriation of funds by the Legislature, authorizes an eligible local jurisdiction to submit an application to the bureau for a grant to assist local equity applicants and local equity licensees through that local jurisdiction's equity program. MAUCRSA requires the bureau to review an application, and to grant funding to an eligible local jurisdiction, based on specified factors. MAUCRSA requires the bureau to prorate the funding as necessary if the applications for funding are greater than the amount appropriated for the program. MAUCRSA requires an eligible local jurisdiction that receives grant funds pursuant to these provisions to use the grant funds to assist local equity licensees in that local jurisdiction to gain entry to, and to successfully operate in, the state's regulated cannabis marketplace. MAUCRSA requires an eligible local jurisdiction that receives

grant funds pursuant to these provisions to, on or before a specified date, submit an annual report to the bureau that contains specified information on the use of the grant funds and specified demographic data. MAUCRSA requires the bureau to serve as a point of contact for local equity programs for specified purposes. MAUCRSA requires, on or before July 1, 2019, the bureau to, among other things, publish approved local equity ordinances and model equity ordinances created by advocacy groups and experts, as specified, and, on or before July 1 2020, to submit a report to the Legislature regarding the progress of local equity programs that receive funding pursuant to these provisions.

This bill would remove the condition that a local jurisdiction request the technical assistance to a local equity program from the authorization of the bureau to provide the technical assistance. The bill would expand the purposes of the grant to include assisting a local jurisdiction in the development of a local equity program. The bill would require an eligible local jurisdiction that has a local equity program to include in its grant application the equity assessment that was used to inform the creation of the local equity program. The bill would expand the factors the bureau is required to consider when reviewing an equity program grant application, including, among others, how long the local jurisdiction has operated a local equity program and the outcomes of the program, if the local jurisdiction has adopted or operated a local equity program. The bill would delete the requirement that the bureau prorate funding if applications are greater than the amount appropriated for the program. The bill would expand the list of methods that grant funding is authorized to be used to assist local equity applicants and local equity licensees, including, among others, funding the creation of an equity assessment to inform the development of a local equity program and funding direct technical assistance to assist local equity applicants and local equity licensees. The bill would authorize the bureau to enter into an interagency agreement with the Governor's Office of Business and Economic Development to administer on its behalf the provisions related to the review and granting of funding for cannabis equity programs. The bill would grant to the Governor's Office of Business and Economic Development all powers and authority granted to the bureau related to those provisions. The bill, until July 1, 2021, would authorize the Governor's Office of Business and Economic Development to review, adopt, amend, and repeal guidelines to implement uniform standards, criteria, requirements, or forms that supplement or clarify the terms, references, or standards set forth in specified provisions. The bill would require a grant recipient to include in the annual report described above specified information related to the local equity program and any other information the bureau determines to be necessary. The bill would require the bureau to serve as a point of contact for local equity programs in coordination with the other licensing authorities. The bill would require the report that the bureau is required to submit to the Legislature regarding the progress of local equity programs funded by these grants to be submitted annually and

to include a copy of the equity assessment, as defined, and equity program descriptions of each local jurisdiction that applies for grant funding.

(7) AUMA establishes the California Cannabis Tax Fund as a continuously appropriated fund consisting of specified taxes, interest, penalties, and other amounts imposed by AUMA. AUMA requires, after other specified disbursements are made from the fund, the Controller, by July 15 of each fiscal year beginning in the 2018–2019 fiscal year, to disburse 60% of the funds deposited in the California Cannabis Fund during the prior fiscal year into the Youth Education, Prevention, Early Intervention and Treatment Account. AUMA requires the Controller to disburse the funds in the account to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. AUMA requires the State Department of Health Care Services to enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs.

The bill would exempt those contracts entered into or amended by the State Department of Health Care Services from specified provisions of law governing public contracting.

(8) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(10) AUMA authorizes legislative amendment of its provisions with a $\frac{2}{3}$ vote of both houses, without submission to the voters, to further its purposes and intent.

This bill would declare that its provisions further the purposes and intent of AUMA.

(11) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) In 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). In its statement of purpose and intent, AUMA calls for regulating cannabis in a way that “reduce[s] barriers to entry into the legal, regulated market.”

(b) Cannabis prohibition had a devastating impact on communities across California and across the United States. Persons convicted of a cannabis

offense and their families suffer the long-term consequences of prohibition. These individuals have a more difficult time entering the newly created adult-use cannabis industry due, in part, to a lack of access to capital, business space, technical support, and regulatory compliance assistance.

(c) During the era of cannabis prohibition in California, the burdens of arrests, convictions, and long-term collateral consequences arising from a conviction fell disproportionately on Black and Latinx people, even though people of all races used and sold cannabis at nearly identical rates. The California Department of Justice data shows that from 2006 to 2015, inclusive, Black Californians were two times more likely to be arrested for cannabis misdemeanors and five times more likely to be arrested for cannabis felonies than White Californians. During the same period, Latinx Californians were 35 percent more likely to be arrested for cannabis crimes than White Californians. The collateral consequences associated with cannabis law violations, coupled with generational poverty and a lack of access to resources, make it extraordinarily difficult for persons with convictions to enter the newly regulated industry.

(d) Offering technical support, regulatory compliance assistance, and assistance with securing the capital necessary to begin a business will further the stated intent of AUMA by reducing barriers to licensure and employment in the regulated industry.

(e) Offering these supports will also aid the state in its goal of eliminating or reducing the illicit cannabis market by bringing more people into the legal marketplace.

(f) It is the intent of the Legislature in enacting this act to ensure that persons most harmed by cannabis criminalization and poverty be offered assistance to enter the multibillion-dollar cannabis industry as entrepreneurs or as employees with high quality, well-paying jobs.

(g) It is the intent of the Legislature in enacting this act that the cannabis industry be representative of the state's population, and that barriers to entering the industry are reduced through support to localities that have created local equity programs in their jurisdictions.

(h) The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act, enacted as Proposition 64 of 2016.

SEC. 2. Section 26031.5 is added to the Business and Professions Code, to read:

26031.5. (a) A licensing authority may issue a citation to a licensee or unlicensed person for any act or omission that violates or has violated any provision of this division or any regulation adopted pursuant thereto. The licensing authority shall issue the citation in writing, and shall describe with particularity the basis of the citation and the notification described in subdivision (c). The licensing authority may include in each citation an order of abatement and fix a reasonable time for abatement of the violation. The licensing authority may, as part of each citation, assess an administrative fine not to exceed five thousand dollars (\$5,000) per violation by a licensee and thirty thousand dollars (\$30,000) per violation by an unlicensed person.

Each day of violation shall constitute a separate violation. In assessing a fine, a licensing authority shall give due consideration to the appropriateness of the amount of the fine with respect to factors the licensing authority determines to be relevant, including the following:

- (1) The gravity of the violation by the licensee or person.
- (2) The good faith of the licensee or person.
- (3) The history of previous violations.

(b) The sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) A licensing authority that issues a citation pursuant to this section shall include a provision that notifies the licensee or person that a hearing may be requested to contest the finding of a violation by submitting a written request within 30 days from service of the citation. The hearing shall be held pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), unless held in accordance with the provisions of Chapter 4.5 (commencing with Section 11400) as authorized by regulation of the licensing authority. If the licensee or person cited fails to submit a written request for a hearing within 30 days from the date of service of the citation, the right to a hearing is waived and the citation shall be deemed a final order of the licensing authority and is not subject to review by any court.

(d) After the exhaustion of the administrative and judicial review procedures, a licensing authority may apply to the appropriate superior court for a judgment in the amount of the administrative fine and an order compelling the cited person to comply with the order of the licensing authority. The application, which shall include a certified copy of the final order of the licensing authority, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(e) A licensing authority may recover from the licensee or person who was the subject of the citation costs of investigation and enforcement, which may include reasonable attorney's fees for the services rendered. If the licensing authority recovers costs from a licensee, the licensing authority shall recover the costs pursuant to Section 125.3.

(f) Fines shall be paid within 30 days of service of a citation by the licensing authority. Failure to pay a fine assessed pursuant to this section within 30 days of the date of service of the citation, unless the citation is being appealed, shall constitute a separate violation under this division subject to additional action by a licensing authority. A licensing authority shall not renew or grant a license to a person who was the subject of the fine until that person pays the fine.

(g) All moneys collected pursuant to this section associated with the recovery of investigation and enforcement costs shall be deposited into the Cannabis Control Fund. Any administrative fine amount shall be deposited directly into the Cannabis Fines and Penalties Account and shall be distributed pursuant to subdivision (d) of Section 26210.

SEC. 3. Section 26040 of the Business and Professions Code is amended to read:

26040. (a) (1) There is established in state government, in the Business, Consumer Services, and Housing Agency, a Cannabis Control Appeals Panel which shall consist of the following members:

(A) One member appointed by the Senate Committee on Rules.

(B) One member appointed by the Speaker of the Assembly.

(C) Three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate.

(2) Each member, at the time of their initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The members of the panel may be removed from office by their appointing authority.

SEC. 4. Section 26043 of the Business and Professions Code is amended to read:

26043. (a) After proceedings pursuant to Section 26031, 26031.5, or 26058 or Chapter 2 (commencing with Section 480) or Chapter 3 (commencing with Section 490) of Division 1.5, any person aggrieved by the decision of a licensing authority denying the person's application for any license, denying the person's renewal of any license, placing any license on probation, imposing any condition on any license, imposing any fine on any license or licensee, assessing any penalty on any license, or canceling, suspending, revoking, or otherwise disciplining any license as provided for under this division, may appeal the licensing authority's written decision to the panel.

(b) The panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the licensing authority.

(c) Review by the panel of a decision of a licensing authority shall be limited to the following questions:

(1) Whether the licensing authority has proceeded without or in excess of its jurisdiction.

(2) Whether the licensing authority has proceeded in the manner required by law.

(3) Whether the decision is supported by the findings.

(4) Whether the findings are supported by substantial evidence in the light of the whole record.

SEC. 5. Section 26050.2 of the Business and Professions Code is amended to read:

26050.2. (a) A licensing authority may, in its sole discretion, issue a provisional license to an applicant if the applicant has submitted a completed license application to the licensing authority, including the following, if applicable:

(1) If compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) is not complete, evidence that compliance is underway.

(2) If compliance with local ordinances enacted pursuant to Section 26200 is not complete, evidence that compliance is underway.

(b) A provisional license issued pursuant to this section shall be valid for no more than 12 months from the date it was issued. If the licensing authority issues or renews a provisional license, they shall include the outstanding items needed to qualify for an annual license specific to the licensee.

(c) A licensing authority may, in its sole discretion, renew a provisional license until the licensing authority issues or denies the provisional licensee's annual license.

(d) A licensing authority may, in its sole discretion, revoke or suspend a provisional license if the licensing authority determines the licensee failed to actively and diligently pursue requirements for the annual license.

(e) A licensing authority shall cancel a provisional license upon issuance of an annual license, denial of an annual license, abandonment of an application for licensure, or withdrawal of an application for licensure.

(f) Except as specified in this section, the provisions of this division shall apply to a provisional license in the same manner as to an annual license.

(g) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the issuance of a license pursuant to this section by the licensing authority.

(h) Refusal by the licensing authority to issue a license pursuant to this section or revocation or suspension by the licensing authority of a license issued pursuant to this section shall not entitle the applicant or licensee to a hearing or an appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division and Sections 26031 and 26058 shall not apply to licenses issued pursuant to this section.

(i) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 6. Section 26055 of the Business and Professions Code is amended to read:

26055. (a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate pursuant to that license within California until a new license is obtained.

(c) A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises

previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(d) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

(e) An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction. An applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction shall be presumed to be in compliance with all local ordinances unless the licensing authority is notified otherwise by the local jurisdiction. The licensing authority shall notify the contact person for the local jurisdiction of any applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction.

(f) (1) A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

(2) Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.

(3) The bureau shall share the information required by this subdivision with the other licensing authorities.

(g) (1) The licensing authority shall deny an application for a license under this division for a commercial cannabis activity that the local jurisdiction has notified the bureau is prohibited in accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdiction's indication that the commercial cannabis activity for which a license is sought is prohibited by a local ordinance or regulation.

(2) Prior to issuing a state license under this division for any commercial cannabis activity, if an applicant has not provided adequate proof of compliance with local laws pursuant to subdivision (e):

(A) The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial cannabis activity within their jurisdiction.

(B) A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.

(C) A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.

(D) If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

(E) At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.

(F) A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.

(3) For purposes of this section, “notification” includes written notification or access by a licensing authority to a local jurisdiction’s registry, database, or other platform designated by a local jurisdiction, containing information specified by the licensing authority, on applicants to determine local compliance.

(h) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2021.

(i) A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of Section 21089 of the Public Resources Code.

SEC. 7. Section 26062 of the Business and Professions Code is amended to read:

26062. (a) (1) No later than January 1, 2021, the Department of Food and Agriculture shall establish a program for cannabis that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

(2) No later than July 1, 2021, the State Department of Public Health shall establish a certification program for manufactured cannabis products that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. For purposes of administering this section, the State Department of Public Health shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) If at any time preceding or following the establishment of a program pursuant to subdivision (a), the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)) authorizes organic designation and certification for cannabis, this section shall become inoperative and, as of January 1, of the following year, is repealed.

SEC. 8. Section 26062.5 of the Business and Professions Code is amended to read:

26062.5. A person shall not represent, sell, or offer for sale any cannabis or cannabis product as organic except in accordance with the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), if applicable. A person shall not represent, sell, or offer for sale any cannabis or cannabis product with the designation or certification established by the Department of Food and Agriculture or the State Department of Public Health pursuant to subdivision (a) of Section 26062 except in accordance with that subdivision.

SEC. 9. Section 26210 of the Business and Professions Code is amended to read:

26210. (a) The Marijuana Control Fund, formerly known as the Medical Cannabis Regulation and Safety Act Fund and the Medical Marijuana Regulation and Safety Act Fund, is hereby renamed the Cannabis Control Fund. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on moneys in the fund.

(b) Upon the effective date of this section, whenever “Marijuana Control Fund,” “Medical Cannabis Regulation and Safety Act Fund,” or “Medical Marijuana Regulation and Safety Act Fund” appears in any statute,

regulation, or contract, or in any other code, it shall be construed to refer to the Cannabis Control Fund.

(c) Any General Fund or special fund loan that was used to establish and support the regulatory activities of the state licensing entities pursuant to former Section 19351 shall be repaid by the initial proceeds from fees collected pursuant to this division or any rule or regulation adopted pursuant to this division, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

(d) Except as otherwise provided, all moneys collected pursuant to this division as a result of fines or penalties imposed under this division shall be deposited directly into the Cannabis Fines and Penalties Account, which is hereby continued in existence, and shall be available, upon appropriation by the Legislature.

SEC. 10. Section 26240 of the Business and Professions Code is amended to read:

26240. For purposes of this chapter, the following definitions apply:

(a) “Eligible local jurisdiction” means a local jurisdiction that demonstrates an intent to develop a local program or that has adopted or operates a local equity program.

(b) “Equity assessment” means an assessment conducted by the local jurisdiction that was used to inform the creation of a local equity program, and that assessment may include the following:

(1) Reference to local historical rates of arrests or convictions for cannabis law violations.

(2) Identification of the impacts that cannabis-related policies have had historically on communities and populations within that local jurisdiction.

(3) Other information that demonstrates how individuals and communities within the local jurisdiction have been disproportionately or negatively impacted by the War on Drugs.

(c) “Local equity applicant” means an applicant who has submitted, or will submit, an application to a local jurisdiction to engage in commercial cannabis activity within the jurisdictional boundaries of that jurisdiction and who meets the requirements of that jurisdiction’s local equity program.

(d) “Local equity licensee” means a person who has obtained a license from a local jurisdiction to engage in commercial cannabis activity within the jurisdictional boundaries of that jurisdiction and who meets the requirements of that jurisdiction’s local equity program.

(e) “Local equity program” means a program adopted or operated by a local jurisdiction that focuses on inclusion and support of individuals and communities in California’s cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization as evidenced by the local jurisdiction’s equity assessment. Local equity programs may include, but are not limited to, the following types of services:

(1) Small business support services offering technical assistance or professional and mentorship services to those persons from economically disadvantaged communities that experience high rates of poverty or communities most harmed by cannabis prohibition, determined by historically high rates of arrests or convictions for cannabis law violations.

(2) Tiered fees or fee waivers for cannabis-related permits and licenses.

(3) Assistance in paying state regulatory and licensing fees.

(4) Assistance securing business locations prior to or during the application process.

(5) Assistance securing capital investments or direct access to capital.

(6) Assistance with regulatory compliance.

(7) Assistance in recruitment, training, and retention of a qualified and diverse workforce, including transitional workers.

(8) Other services deemed by the bureau to be consistent with the intent of this chapter.

(f) “Transitional worker” means a person who, at the time of starting employment at the business premises, resides in a ZIP Code or census tract area with higher than average unemployment, crime, or child death rates, and faces at least one of the following barriers to employment: (1) is homeless; (2) is a custodial single parent; (3) is receiving public assistance; (4) lacks a GED or high school diploma; (5) has a criminal record or other involvement with the criminal justice system; (6) suffers from chronic unemployment; (7) is emancipated from the foster care system; (8) is a veteran; or (9) is over 65 years of age and is financially compromised.

SEC. 11. Section 26242 of the Business and Professions Code is amended to read:

26242. (a) The bureau may provide technical assistance to a local equity program that helps local equity applicants or local equity licensees. When determining whether to provide technical assistance, the bureau shall make individual determinations based on the reasonableness of the request and available resources.

(b) “Technical assistance” includes providing training and educational sessions regarding state cannabis licensing and regulatory processes and requirements to equity applicants or equity licensees that are coordinated with the local equity program.

SEC. 12. Section 26244 of the Business and Professions Code is amended to read:

26244. (a) (1) An eligible local jurisdiction may, in the form and manner prescribed by the bureau, submit an application to the bureau for a grant to assist with the development of an equity program or to assist local equity applicants and local equity licensees through that local jurisdiction’s equity program.

(2) An eligible local jurisdiction that has a local equity program shall include in its application submitted pursuant to paragraph (1) the equity assessment that was used to inform the creation of the local equity program.

(3) The bureau shall consider the following factors when reviewing an application:

(A) Whether the local jurisdiction is an eligible local jurisdiction.

(B) Whether the local jurisdiction has identified communities and populations within that local jurisdiction that have been disproportionately or negatively impacted by arrests and convictions for cannabis law violations and has demonstrated a nexus between the individuals served through the local equity program and the communities and populations identified by the local jurisdiction.

(C) Whether the local jurisdiction has adopted or operates a local equity program, and, if so, the bureau shall consider the following:

(i) How long the local jurisdiction has operated the program.

(ii) The outcomes of the program.

(D) Whether the local jurisdiction has demonstrated the ability to provide, or created a plan to provide, the services identified in subdivision (b).

(E) Whether the local jurisdiction has demonstrated a financial commitment to the implementation and administration of the program.

(F) Whether the local jurisdiction has demonstrated a commitment to remove, or has taken steps to remove, local barriers to entering the legal cannabis market for local equity applicants and local equity licensees, including, but not limited to, developing a local regulatory framework that facilitates an equitable and economically just industry.

(G) The number of existing and potential local equity applicants and local equity licensees in the local jurisdiction.

(H) Any additional relevant and reasonable criteria the bureau deems necessary.

(4) The bureau shall grant funding to an eligible local jurisdiction based on the eligible local jurisdiction's compliance with paragraph (2), if applicable, and its review of the factors in paragraph (3).

(b) (1) An eligible local jurisdiction that receives a grant pursuant to subdivision (a) shall use grant funds to do either of the following:

(A) Assist the local jurisdiction in the development of a local equity program.

(B) Assist local equity applicants or local equity licensees in that local jurisdiction to gain entry to, and to successfully operate in, the state's regulated cannabis marketplace.

(2) For purposes of this subdivision, "assist" includes, but is not limited to, any of the following methods:

(A) To provide a low-interest or no-interest loan or a grant to a local equity applicant or local equity licensee to assist the applicant or licensee with startup and ongoing costs. For purposes of this paragraph, "startup and ongoing costs" include, but are not limited to, the following:

(i) Rent.

(ii) Leases.

(iii) Local and state application, licensing, and regulatory fees.

(iv) Legal assistance.

(v) Regulatory compliance.

(vi) Testing of cannabis.

(vii) Furniture.

(viii) Fixtures and equipment.

(ix) Capital improvements.

(x) Training and retention of a qualified and diverse workforce.

(B) To support local equity program efforts to provide sources of capital to local equity applicants and local equity licensees.

(C) To provide or fund direct technical assistance to local equity applicants and local equity licensees.

(D) To assist in the development or administration of local equity programs.

(E) To fund the creation of an equity assessment to inform the development of a local equity program.

(c) An eligible local jurisdiction that receives a grant pursuant to subdivision (a) shall, on or before January 1 of the year following receipt of the grant and annually thereafter for each year that grant funds are expended, submit an annual report to the bureau that includes all of the following information:

(1) How the local jurisdiction disbursed grant funds.

(2) How the local jurisdiction identified local equity applicants or local equity licensees, including how the local jurisdiction determines who qualifies as a local equity applicant or local equity licensee.

(3) The number of local equity applicants and local equity licensees that were served by the grant funds.

(4) Aggregate demographic data on equity applicants, equity licensees, and all other applicants and licensees in the jurisdiction, including, but not limited to, race, ethnicity, gender, sexual orientation, income level, education level, prior convictions, and veteran status. This information will be consolidated and reported without the individual's identifying information.

(5) If the local jurisdiction requires equity applicants to become eligible through specific ownership percentages, a breakdown of equity applicants' and equity licensees' business ownership types and percentages of ownership.

(6) Other information that the bureau deems necessary to evaluate the outcomes of the program consistent with the intent of this chapter and that was specified in the grant agreement between the bureau and the local jurisdiction.

(d) An eligible local jurisdiction that receives a grant pursuant to this section shall use no more than 10 percent of the state grant for administration, including employing staff or hiring consultants to administer grants and the program.

(e) The bureau may enter into an interagency agreement with the Governor's Office of Business and Economic Development to administer this section on its behalf.

(f) (1) All powers and authority granted to the bureau in this section are also granted to the Governor's Office of Business and Economic Development to carry out the purposes of this section.

(2) (A) The Governor's Office of Business and Economic Development may review, adopt, amend, and repeal guidelines to implement uniform

standards, criteria, requirements, or forms that supplement or clarify the terms, references, or standards set forth in this section and Section 26240. The adoption, amendment, or repeal of a guideline, term, or standard authorized by this subdivision is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(B) This paragraph shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 13. Section 26246 of the Business and Professions Code is amended to read:

26246. To facilitate greater equity in business ownership and employment in the cannabis market, the bureau shall do all of the following:

(a) In coordination with the other licensing authorities, serve as a point of contact for local equity programs.

(b) On or before July 1, 2019, publish local equity ordinances that have been enacted by the legislative body of the respective local jurisdiction, and model local equity ordinances created by advocacy groups and experts to the bureau's internet website. Advocacy groups and experts may include, but are not limited to, minority business owners and entrepreneurs, organizations with expertise in addressing barriers to employment and licensure for low-income communities or persons with prior arrests or convictions, and unions representing cannabis workers.

(c) To the extent feasible, coordinate with the relevant local jurisdictions to carry out the responsibilities described in this section.

SEC. 14. Section 26248 of the Business and Professions Code is amended to read:

26248. (a) On or before July 1, 2020, and annually thereafter, the bureau shall submit a report to the Legislature regarding the progress of local equity programs that have received funding pursuant to Section 26244.

(b) The report shall include, but is not limited to, the following information:

(1) The local jurisdictions that have enacted local equity programs.

(2) A copy of the equity assessment and equity program description of each local jurisdiction that applied for grant funding pursuant to Section 26244.

(3) The number of local equity applicants and general applicants applying for and receiving licenses in the jurisdictions that received grants pursuant to Section 26244.

(4) Information collected pursuant to subdivision (c) of Section 26244.

(c) The bureau shall post the report required by this section on its internet website.

(d) The report required by this section shall be submitted in compliance with Section 9795 of the Government Code, and shall apply notwithstanding Section 10231.5 of the Government Code.

SEC. 15. Section 11126 of the Government Code is amended to read:

11126. (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of their right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, “employee” does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant’s qualifications for licensure and an inquiry specifically related to the state body’s enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor

shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board or the Cannabis Control Appeals Panel from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, “lease” includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d) (1) Notwithstanding any other law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed

session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant’s qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

SEC. 16. Section 34019.5 is added to the Revenue and Taxation Code, to read:

34019.5. Contracts entered into or amended by the State Department of Health Care Services to implement and administer the programs identified in paragraph (1) of subdivision (f) of Section 34019 shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, shall be exempt from the State Administrative Manual, and shall not be subject to the review or approval of any division of the Department of General Services.

SEC. 17. The Legislature finds and declares that Section 15 of this act, which amends Section 11126 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The protection of sensitive information, public safety, privacy, and security is furthered by ensuring that the Cannabis Control Appeals Panel may hold a closed session for the purpose of holding a deliberative conference as provided in Section 11125 of the Government Code.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 19. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SEC. 20. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to have a thriving and legal cannabis market in California, it is necessary that this act take effect immediately.

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EXHIBIT 55



California Regulatory Notice Register

REGISTER 2018, NO. 24-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JUNE 15, 2018

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 Colusa Groundwater Authority
 Hanford Joint Union High School District

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Monterey Bay Area Self
Insurance Authority
Colusa Groundwater Authority
Hanford Joint Union High
School District

A written comment period has been established commencing on June 15, 2018, and closing on July 30, 2018. Written comments should be directed to the Fair Political Practices Commission, Attention Sasha Linker, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for her review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon her or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than July 30, 2018. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Sasha Linker, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Sasha Linker, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**TITLE 4. CALIFORNIA HEALTH
FACILITIES FINANCING AUTHORITY**

The California Health Facilities Financing Authority (Authority) proposes to adopt the regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

The Authority has not scheduled a public hearing on this proposed action. However, the Authority will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Authority. Comments may also be submitted by facsimile (FAX) at (1-916) 654-5362 or email at chffa@treasurer.ca.gov. The written comment period closes at 5:00 p.m. on July 30, 2018. The Authority will consider only comments received by the Authority office by that time. Please submit comments to:

Carolyn Aboubechara
Treasury Program Manager II
California Health Facilities Financing Authority
915 Capitol Mall, Room 435
Sacramento, CA 95814

Following the written comment period, CHFFA may thereafter adopt the proposed regulations substantially as described below or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposed regulations will be available for 15 days prior to its adoption to all persons who submit writ-

ten comments during the public comment period, and all persons who request notification.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at www.treasurer.ca.gov/chffa/hospital.asp. Additionally, all information that the Authority considered as the basis for these proposed regulations is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

California Health Facilities Financing Authority
915 Capitol Mall, Room 435
Sacramento, CA 95814
Telephone: (1-916) 653-2799
Facsimile: (1-916) 654-5362
Email: chffa@treasurer.ca.gov

AUTHORITY AND REFERENCE CITATIONS

The Authority adopts these regulations under the authority granted in Sections 1179.55, 1179.57, and 1179.61, Health and Safety Code, and cites the following references: Sections 1179.50, 1179.51, 1179.54, 1179.55, 1179.56, 1179.57, 1179.59, 1179.67, and 1179.68, Health and Safety Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

California voters passed Proposition 3 on November 4, 2008, enabling the State of California to issue \$980 million General Obligation Bonds for the Children's Hospital Program. The purpose of the program, as outlined in Health and Safety Code Sections 1179.50-1179.72, is to improve the health and welfare of California's critically ill children by providing a stable and ready source of funds for capital improvement projects for children's hospitals. The California Health Facilities Financing Authority (the "Authority") is responsible for administering the Program. Thirteen children's hospitals are eligible for grants through the Program: eight nonprofit children's hospitals, and five University of California children's hospitals.

The Authority administered a First Funding Round that will end on June 30, 2018. Nine of the 13 hospitals have been awarded the maximum grants for which each is eligible (\$98 million for nonprofit hospitals and \$39.2 million for UC hospitals). However, there are four hospitals that have not yet been awarded their maximum grant amounts. Approximately \$92 million is

available to be awarded to the four hospitals by June 30, 2018. In order for these grant funds to be awarded after June 30, 2018, the Authority must establish a new funding round. The proposed amendments to the regulations will establish a new timeframe for the Second Funding Round and allow the Authority to create a third funding round if needed. The ability to create a third funding round will ensure that all funds are awarded. All 13 children's hospitals are eligible to apply for grant funds. Grant funds will be awarded consistent with Section 1179.56, subdivisions (a) and (b), of the Health and Safety Code: twenty percent of the total funds to the five University of California children's hospitals and eighty percent to the eight nonprofit children's hospitals.

Health and Safety Code sections 1179.57, subdivisions (c) and (d), provide that the First Funding Round is to end on June 30, 2018, at which time any funds remaining shall be available for any children's hospital identified in paragraph (1) or (2), as applicable, of Section 1179.51, subdivision (b). The Second Funding Round, which the proposed regulations provide for, will allow for a competitive round to commence on July 1, 2018 to disburse the remaining grant funds in a competitive funding round on a first-come, first-served basis. These regulations were initially filed as "emergency" in order to allow the children's hospitals to review the Second Funding Round requirements and submit Applications for the available funds when the Second Funding Round opens on July 1, 2018. The Office of Administrative Law approved the emergency regulatory action for these regulations with an effective date of March 29, 2018. The emergency regulations will expire on September 26, 2018. Prior to the expiration date, CHFFA is required to complete the Certificate of Compliance for this regulatory package.

The Application Form, Children's Hospital Program of 2008 Grant Application, Form # CHFFA 6, Rev. 01-2018-3 has been revised for the Second Funding Round. The revision includes Application Submission Instructions and the revision date, 01-2018-3 reflects that this is the most current Application and is to be used when applying for Grant funds.

The only entities impacted by these regulations are the children's hospitals as specified in Health and Safety Code Section 1179.51, subdivision (b).

DOCUMENTS INCORPORATED BY REFERENCE

Children's Hospital Program of 2008 Grant Application Form #CHFFA 6, Rev. 01-2018-3.

DESCRIPTION OF THE BENEFITS OF THE PROPOSED ACTION, WHICH INCLUDES NONMONETARY BENEFITS SUCH AS PROTECTION OF THE PUBLIC HEALTH AND SAFETY, WORKER SAFETY, THE ENVIRONMENT, ETC.

These regulations will directly benefit 13 children's hospitals (eight non-profit children's hospitals and five University of California Children's Hospitals) that operate throughout California. These hospitals provide comprehensive pediatric services to a high volume of children eligible for governmental programs and to children with special health care needs eligible for the California Children's Services program. Approximately \$92 million in grant funds remains. These regulations provide the mechanism for additional funding rounds to be held in order to disburse these remaining funds to the designated children's hospitals for the purchase of needed and updated equipment for use in the treatment of these children or to fund other capital projects to either expand bed capacity or update the facility as needed to better serve these children and their families.

AN EVALUATION OF WHETHER OR NOT THE PROPOSED REGULATIONS ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS

The Authority evaluated whether or not there were any other regulations concerning the awarding of grants to the Children's Hospitals to implement Proposition 3 (the Children's Hospital Program of 2008) and has found that these are the only regulations in this area. The proposed regulations are neither inconsistent nor incompatible with existing state regulations. (Below is a description of the other program affecting children's hospitals. While this program is also under the purview of the California Health Facilities Financing Authority, it is a separate and distinct program.)

Proposition 61, the Children's Hospital Program of 2004, was passed by California voters on November 2, 2004. This Proposition enabled the State of California to issue \$750 million in General Obligation bonds for the purpose of improving the health and welfare of California's critically ill children by providing a stable and ready source of funds for capital improvement projects for children's hospitals (Section 1179.10-1179.43 of the Health and Safety Code). The Authority is responsible for the administration of this Program as well as the Children's Hospital Program of 2008. The same thirteen children's hospitals are eligible for grants through the Children's Hospital Program of 2004 and the Program of 2008. While some of the requirements are the

same, the Programs are governed by different sections of the Health and Safety Code as well as distinct sections of the California Code of Regulations. The regulations governing the Children's Hospital Program of 2004 is in Title 4, Division 10, Chapter 2 and the regulations governing the Children's Hospital Program of 2008 are contained in Title 4, Division 10, Chapter 2.5.

COST ESTIMATE

1. Cost or Savings to State Agencies: No impact.
2. Cost to Local Agencies or School District Which Must Be Reimbursed in Accordance with Government Code Sections 17500-17630: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No impact.
4. Federal Funding to State Agencies: No impact.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or school districts. There are no "state-mandated local costs" in these regulations which require reimbursement under Section 17500 et seq. of the Government Code.

FISCAL IMPACT

These regulations do not impose any costs to any local agency or school district requiring reimbursement pursuant to section 17500 et seq. of the Government Code, nor do these regulations identify any costs or savings to any state agency, other nondiscretionary costs or savings to be imposed upon local agencies, or costs or savings in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The California Health Facilities Financing Authority has not identified any significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of these regulations does not have an impact on the creation or elimination of jobs within the state. As a result of the adoption of these regulations, new businesses will not be created and current busi-

nesses will not be eliminated within the state. The adoption of these regulations will not provide for the expansion of businesses currently doing business within the state. Additionally, neither benefits nor detriments are expected to worker safety or the state's environment due to the adoption of these regulations.

These regulations will directly impact the health and welfare of California residents, specifically children in need of acute care. The monies awarded to the children's hospitals through this Grant Program will benefit the quality of children's health care through the purchase of additional needed and updated equipment for use in the treatment of these children or to fund other capital projects to either expand bed capacity or update facilities as needed to better serve these children and their families.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The California Health Facilities Financing Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT

The proposed regulations do not require any reports to be made by any business or other entity.

SMALL BUSINESS

The proposed regulations will not affect small businesses because these regulations are specific to and affect only the thirteen children's hospitals in California as identified in the Children's Hospital Program of 2008 (Health and Safety Code Section 1179.51 (b)(1) and (b)(2)).

ALTERNATIVES INFORMATION

In developing the regulatory action, CHFFA did not consider any alternatives because no reasonable alternative has been presented for review. CHFFA must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CHFFA would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to the affected entities than the proposed action, or would be more cost-effective to potentially affected private persons and equally effective in implementing the statutory policy or other provision of law.

**CHFFA REPRESENTATIVE REGARDING THE
RULEMAKING PROCESS OF THE
PROPOSED REGULATIONS**

Contact Person:
Carolyn Aboubechara
(1-916) 653-2799

Backup:
Martha Maldonado
(1-916) 653-2799

**TITLE 13. NEW MOTOR
VEHICLE BOARD**

NOTICE IS HEREBY GIVEN that the California New Motor Vehicle Board ("Board"), pursuant to the authority vested in the Board by subdivision (a) of Vehicle Code section 3050, proposes to adopt the proposed regulation as described below, after considering all comments, objections, and recommendations regarding the proposed regulatory action.

PROPOSED REGULATORY ACTION

The Board proposes to amend sections 551.14, 551.24, 555.1 and 584 of Title 13 of the California Code of Regulations pertaining to electronic service.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the Board considered and adopted the proposed regulation at a noticed General Meeting held on March 13, 2018. Twelve days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulation was mailed to all individuals and entities on the Board's Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board's website.

No comments by the public were received at the March 13, 2018, General Meeting, and no further public discussion was held prior to publication of the notice.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 323-1632 or by e-mail at dvare@nmvb.ca.gov or nmvb@nmvb.ca.gov. The written comment period closes at 5:00 p.m. on July 30, 2018. The Board will consider only comments received at the Board's offices by that time.

Submit comments to:

Danielle R. Vare, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 327-3129 direct line
(916) 445-1888 main line
(916) 323-1632 fax
dvare@nmvb.ca.gov

AUTHORITY AND REFERENCE

Vehicle Code section 3050, subdivision (a), authorizes the Board to adopt the proposed regulation. The proposed regulation implements, interprets, and makes specific Vehicle Code sections 3050(a), 3050(c) and 3050(d), Section 11440.20 of the Government Code and Sections 1013a, 1013b and 2015.5 of the Code of Civil Procedure.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The adopted mission of the Board is to: "... enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner." The adopted vision statement provides that the Board safeguard for its "constituency, a fair, expeditious and efficient forum for resolving new motor vehicle industry disputes, which ultimately improves relations and reduces the need for costly litigation and develop methods that further improve the delivery of Board services in a timely and cost-effective manner...."

The Board proposes to amend Section 551.14 to add Section 1013b of the Code of Civil Procedure referred to in subdivision (d) pertaining to electronic service when requesting informal mediation.

The Board proposes to amend Section 551.24 to add Section 1013b of the Code of Civil Procedure referred to in subdivision (a) pertaining to proof of electronic service. It also adds Section 1013b to the reference section of the regulation.

The Board proposes to amend Section 555.1 to add Section 1013b of the Code of Civil Procedure pertaining to electronic service when serving a petition. It also adds Section 1013b to the reference section of the regulation.

The Board proposes to amend Section 584 to add Section 1013b of the Code of Civil Procedure pertaining to electronic service when serving a protest. It also adds Section 1013b to the reference section of the regulation.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The broad objective of the regulation is to clarify for litigants that appear before the Board the information necessary to effectively represent themselves or their clients, as well as consumers who may choose to file a request for informal mediation with the Board.

The specific benefit anticipated from the regulation is promoting the expeditious and economical resolution of statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors) as well as consumers requesting informal mediation with any licensee. The Board keeps these types of cases from further clogging our already congested courts. It provides a uniformity of decisions across the state, allowing franchisors and their dealers to conduct their business in compliance with California law.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Board conducted an evaluation of the proposed regulations for potential inconsistency or incompatibility with existing state regulations and has found that they are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: 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 through 17630: None.

- Other nondiscretionary 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 Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant, statewide adverse economic impact directly affecting businesses, including the ability of California business to compete with businesses in other states: None.
- Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board concludes that the proposed regulations will not (1) create any jobs within the State of California, (2) eliminate any jobs within the State of California, (3) create any new businesses within the State of California, (4) eliminate any existing businesses within the State of California, or (5) cause the expansion of businesses currently doing business within the State of California.

BENEFITS OF THE REGULATION

The proposed regulation will promote the expeditious and economical resolution of disputes between new motor vehicle dealers and their manufacturers or distributors as well as consumers with complaints against licensees.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulation will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulation, are legally required to enforce the regulation, or derive a benefit from or incur an obligation from the enforcement of the regulation. The proposed regulation merely clarifies electronic service in matters involving franchised new motor vehicle dealers and their franchisors (new vehicle manufacturers or distributors) who choose to file a protest or petition with the Board, as well as consumers who may choose to file a request for informal mediation.

CONSIDERATION OF ALTERNATIVES

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

The Board invites interested persons to present comments, statements or arguments with respect to alternatives to the proposed regulation, during the written comment period or at the public hearing, if one is requested.

CONTACT PERSONS

Please direct requests for copies of the proposed text (the "express terms") of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Vare at the following address:

Danielle R. Vare, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 327-3129 direct line
(916) 445-1888 main line
(916) 323-1632 fax
dvare@nmvb.ca.gov

The backup contact person for these inquiries is:

Robin P. Parker, Senior Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 323-1536 direct line
(916) 445-1888 main line
(916) 323-1632 fax
rparker@nmvb.ca.gov

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of

the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, the Economic and Fiscal Impact Statement, and all the information upon which the proposal is based. Copies may be obtained by contacting the contact persons identified above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications which 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 Board adopts the regulation as revised. Requests for copies of any modified regulation should be addressed to the Board contact person or back-up contact person at the addresses indicated above. The Board will accept written comments on the modified regulation for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion of the Final Statement of Reasons, copies thereof may be obtained by contacting Ms. Vare or Ms. Parker at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout font can be accessed through the Board's website at www.nmvb.ca.gov.

TITLE 14. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

Division 7: Department of Resources Recycling
and Recovery

Chapter 4: Resource Conservation Programs

Article 7: Reusable Grocery Bags

Sections: 17988.1-17988.6

The California Department of Resources Recycling and Recovery (Department) proposes to add to the California Code of Regulations, Title 14, Division 7, Chap-

ter 4, Article 7 commencing with Section 17988. The proposed regulation is intended to clarify administrative procedures and establish the administrative certification fee for the Reusable Grocery Bag Program (Senate Bill 270, Chapter 850, Statutes of 2014).

PUBLIC HEARING

A public hearing to receive public comments has been scheduled for August 15, 2018. The hearing will be held at the:

Joe Serna Jr., Cal EPA Building
Sierra Hearing Room
1001 I Street, 2nd Floor
Sacramento, CA 95814

The hearing will begin at **2:00 p.m. on August 15, 2018**, and will conclude after all testimony is given. CalRecycle requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact SB270@calrecycle.ca.gov.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation to the Department. **The written comment period for this rulemaking closes at 4:00 p.m. on July 30, 2018.** The Department will also accept written comments during the public hearing described above. Please submit your written comments to:

Paulina Kolic, PhD
Materials Management and Local
Assistance Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
FAX: (916) 319-7794
E-MAIL: SB270@calrecycle.ca.gov

AUTHORITY AND REFERENCES

The authority for this regulation is Public Resources Code Sections 40401 and 40502. The following is a list of references cited in this proposed regulation: Public Resources Code sections 42280, 42281, 42281.5, 42282, 42283, 42283.5, 42283.6, 42283.7, 42284, 42285, 42287, and 42288.

INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code Section 40000 et seq., gives the Department authority to provide for the protection of public health, safety, and the environment through waste prevention, waste diversion, and safe waste processing and disposal. Public Resources Code sections 40502 requires the Department to adopt rules and regulations to implement the Act.

The proposed new regulations cover CalRecycle's responsibilities for the Reusable Grocery Bag Program (Public Resources Code sections 42280-42288). This rulemaking is intended to clarify administrative procedures and establish the administrative certification fee for the Reusable Grocery Bag Program (Senate Bill 270, Chapter 850, Statutes of 2014).

More specifically, this regulation will:

1. Clarify the administrative procedures to submit reusable grocery bag proofs of certification;
2. Establish a method to calculate the biennial administrative certification fee that reusable grocery bag producers will pay when submitting proofs of certification;
3. Define terms such as "aesthetic change" and "type of reusable grocery bag"; and
4. Establish procedures for the Department to conduct a completeness review of proof of certification submittals.

Staff have met with numerous stakeholders and conducted a public workshop on October 25, 2017 to share informal draft regulatory text and concepts for the administrative certification fee schedule. Approximately 80 people participated in the workshop either in person or through the webinar. Comments from stakeholders were incorporated into the proposed *Administrative Certification for Reusable Grocery Bags* regulation.

Benefits of the Regulation

The statute that necessitated this regulation instituted a ban on the sale of single-use carryout bags. Instead, reusable grocery bags that meet the requirements of sections 42281 and 42281.5 of the Public Resources Code may be distributed for a fee of no less than 10 cents. The benefits of the ban imposed by SB 270 include: a reduction of litter and marine debris, fewer plastic bags in the waste stream, and minimized disruption to recycling facilities that must contend with jammed machinery and slower operations caused by single-use plastic bags. Statute requires that proof of certification for reusable grocery bags be submitted to the Department and that it post a list on its website with names of the certified reusable grocery bag producers.

This regulation specifically clarifies administrative procedures and establishes the administrative certification fee schedule pursuant to the requirements of SB

270, which will fund maintenance and ongoing operation of the Reusable Grocery Bag Reporting System. This regulation will ensure that reusable grocery bags sold and distributed in California meet the chemical and physical requirements specified by the law. Included in these requirements are toxicity testing and performance standards that ensure reusable grocery bags are safer for the environment. There are also postconsumer recycled content requirements which will minimize the environmental impacts associated with the extraction and processing of virgin materials to manufacture reusable grocery bags.

POLICY STATEMENT OVERVIEW

SB 270 was signed by Governor Brown in 2014. Due to a referendum, SB 270 qualified as Proposition 67 for the November 2016 general election. SB 270 was upheld by voters and codified in Public Resources Code Sections 42280 through 42288. As part of implementation, the Department has the following responsibilities: provide an online system to receive proofs of certification, publish a list of certified grocery bag producers, establish an administrative certification fee, publish a list of retail establishments that voluntarily comply, and provide a status report to the legislature by March 1, 2018. For reusable grocery bag producers to be in compliance, they must submit a proof of certification for each type of reusable grocery bag that is manufactured, sold, or distributed in the state and pay an administrative certification fee to the Department.

PLAIN ENGLISH REQUIREMENTS

Department staff prepared the proposed regulation pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulation is considered non-technical and is written to be easily understood by those parties that will use them.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

CONSISTENCY WITH STATE REGULATIONS

After conducting an evaluation for any regulations relating to this area, the Department has found that these are the only regulations dealing with reusable grocery bags. Therefore, the proposed regulations are neither

inconsistent nor incompatible with existing state regulations.

MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS

The Department has determined that the proposed regulations do not impose a mandate on state agencies, local agencies, or school districts. Department staff have determined that the proposed regulations will result in no costs to any local agency or school districts requiring reimbursement under Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of the Government Code, or any savings or other impacts such as revenue changes to other state agencies, and no costs or savings in federal funding to the state.

FISCAL IMPACT

Costs to any local agency or school district requiring reimbursement

The Department has determined that the proposed regulations do not result in costs to any local agency or school district that is required to be reimbursed pursuant to Government Code section 17500 et seq.

Costs or savings to any state agency

The Department has determined that the proposed regulations do not result in any cost or savings to any state agency.

Non-discretionary cost or savings imposed upon local agencies

The Department has determined that there are no non-discretionary costs or savings imposed upon any local agencies.

Cost or savings in federal funding to the state

The Department has determined that there are no costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

Department staff made a determination that the proposed regulation will not have an effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES, INCLUDING ABILITY TO COMPETE

Department staff made an initial determination that the proposed regulation will not have a significant statewide adverse economic impact directly affecting

businesses, including the ability of California businesses to compete with businesses in other states. The Department did not rely on any technical, theoretical or empirical study, report or similar document in proposing the proposed regulatory action. The Department relied upon the following information sources:

1. The Department developed the proposed regulations and economic impact assessment based on over a year of experience administering the existing Reusable Grocery Bag Program.
2. The Department developed, presented and received feedback on proposed regulations through oral and written comments submitted by stakeholders at a public workshop on October 25, 2017 and at a public meeting held on March 20, 2018.
 - a. <http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=2196&aiid=2005>
 - b. <http://www.calrecycle.ca.gov/Laws/Rulemaking/GroceryBags/DraftComment/default.htm>
 - c. <http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=2345&aiid=2139>

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Effect on Creation or Elimination of Jobs, Existing, or New Business in the State of California

Department staff determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the state of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the Environment

The proposed regulation intends to provide for the protection of public health, safety, and the environment through the development and maintenance of a database of the certified reusable grocery bag producers.

COST IMPACT ON REPRESENTATIVE PERSON OR BUSINESS

Department staff made an initial determination that the proposed regulation will have an estimated initial

cost of \$21,788 and an ongoing annual cost of \$3,788 for each business affected by the proposed regulation. This cost impact is the result of a fee that will be used to pay for the Department's reasonable cost of implementation.

BUSINESS REPORT

The proposed regulation does not require businesses to make a report; however, the proposed regulation does require regulated business to submit certification documents to the Department. The submission of these documents is required by statute, and it is necessary for the health, safety, and welfare of the people of the state that the proposed regulation apply to businesses.

EFFECT ON SMALL BUSINESSES

Department staff made an initial determination that the proposed regulation will have an estimated initial cost of \$21,788 and an ongoing annual cost of \$3,788 for each small business. This cost impact is the result of a fee that will be used to pay for the Department's reasonable cost of implementation.

CONSIDERATION OF ALTERNATIVES

Alternatives to the proposed regulation have been considered.

The Department considered alternatives to the proposed regulation and determined that: 1) no alternative would be more effective in carrying out the purpose for which the action is proposed; 2) no other alternative would be as effective and less burdensome to private persons, while at the same time protecting public health, safety, and the environment; and 3) no other alternative would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternative 1: Remove the completeness review that is conducted by the Department on proofs of certification that are submitted by reusable grocery bag producers. This would mean that reusable grocery bag producers may upload documents to the Department's Reusable Grocery Bag Reporting System at their discretion and the Department staff would not review submittals for completeness. This alternative would not result in a reduction of costs or an increase in benefits; however, it could jeopardize the regulated community if information required by statute is inadvertently missed or not provided to the Department.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Paulina Kolic, PhD
Materials Management and Local Assistance
Division
California Department of Resources Recycling and
Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
PHONE: (916) 341-6258
FAX: (916) 319-7794
E-MAIL: Paulina.Kolic@CalRecycle.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Robert Contreras
Materials Management and Local Assistance
Division
California Department of Resources Recycling and
Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
PHONE: (916) 341-6338
FAX: (916) 319-7380
E-MAIL: Robert.Contreras@CalRecycle.ca.gov

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATION

The Department will have the entire rulemaking file, and all information that provides the basis for the proposed regulation, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting the persons listed above. For more timely access to the proposed text of the regulation, and in the interest of waste prevention, interested parties are encouraged to access the Department's Internet webpage at <http://www.calrecycle.ca.gov/laws/rulemaking/GroceryBags/default.htm>. Additionally, the Final Statement of Reasons will be available at the above listed Internet address or you may contact the persons named above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

The Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Department adopts the regulation as revised. Requests for the modified text should be made to the contact person named above. The Department will transmit any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The Department will accept written comments on the modified regulation for 15 days after the date on which they are made available.

TITLE 16. PHYSICIAN
ASSISTANT BOARD

The Physician Assistant Board (Board) proposes to adopt the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:00 a.m. on **August 10, 2018**, in the **Spinnaker Room of the Sheraton San Diego Hotel and Marina** located at 1380 Harbor Island Drive, San Diego, California 92010. The Spinnaker Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 263-2671 or by e-mail to anita.winslow@mbc.ca.gov. The written comment period closes at **5:00 p.m. on August 10, 2018**. The Board will consider only comments received at the Board offices by that time. Submit comments to:

Anita Winslow, Regulatory Coordinator
Physician Assistant Board
2005 Evergreen Street, Suite 1100
Sacramento, CA 95815-3893

AUTHORITY AND REFERENCE

Business and Professions Code section 3510 authorizes the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific sections 490 and 3527 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 3510 (Section 3510) authorizes the Board to adopt, amend, and repeal regulations that may be necessary to enable it to carry out the provisions of its practice act. Business and Professions Code sections 490 and 3527 authorize the Board to discipline a license if the licensee is convicted of a crime that is substantially related to the qualifications, functions, or duties of a physician assistant. Section 1399.525 of title 16 of the California Code of Regulations (Section 1399.525) indicates that a conviction for driving under the influence of drugs or alcohol is considered a substantially related crime.

Business and Professions Code section 490 permits the Physician Assistant Board (Board) to discipline a license if the licensee has been convicted of a crime and the crime is substantially related to the qualifications, functions, or duties of a physician assistant. Existing regulations at Section 1399.514 of Title 16 of the California Code of Regulations (Section 1399.514) require physician assistant licensees to disclose whether, since their last renewal application, they have been convicted of violating any law, except traffic infractions with fines under \$300 that did not involve alcohol, dangerous drugs or controlled substances. Upon review of Section 1399.514, the Board determined that subdivision (a) of this section should be amended to increase the threshold fine amount for reporting convictions as a condition of license renewal. The purpose of this amendment is to increase the threshold fine amount for reporting an infraction from \$300 to \$500 because the current \$300 minimum reporting requirement results in disclosure of minor traffic violations that are typically not substantially related to the qualifications, functions or duties of a physician assistant.

Anticipated Benefits of the Proposed Regulation:

This regulatory proposal will allow licensees to not have to disclose minor infractions unrelated to the practice of medicine. Licensees could save minor costs currently associated with reporting infractions if this regulatory proposal is adopted, such as the cost to obtain certified copies of court documents and postage. These costs may be incurred by licensees after the reporting of a criminal conviction since these documents may be requested as part of the Board's inquiry and investigation following disclosure of the conviction to the Board. The Board would continue to receive disclosures of those convictions that may be substantially related to the practice of physician assistants. Consumers would continue to be protected from physician assistants who have convictions that relate to the practice of medicine since licensees must report any conviction, including a verdict of guilty, a guilty plea or no contest, of a felony or misdemeanor to the Board within thirty (30) days of the occurrence pursuant to section 1399.521.5 of Title 16 of the California Code of Regulations (Section 1399.521.5).

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: 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 through 17630: None.

Other nondiscretionary 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 Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

Business Impact:

This regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

There is no business impact because this proposed regulation would reduce or eliminate the infractions licensees would be required to disclose as a condition of license renewal. Criminal infractions not involving drugs or alcohol that resulted in a fine of at least \$300 but less than \$500 would no longer have to be reported. The Board estimates that approximately 10% of convictions reported by licensees involve traffic infractions, which was approximately ten (10) licensees. Licensees affected by this proposal could save minor costs currently associated with reporting infractions if this regulatory proposal is adopted, such as the cost to obtain certified copies of court documents and postage. These costs may be incurred by licensees after the reporting of a criminal conviction since these documents may be requested as part of the Board's inquiry and investigation following disclosure of the conviction to the Board.

Effect on Small Business:

The Physician Assistant Board has determined that the proposed regulation would not affect small businesses because it would only impact the infractions licensees would be required to disclose as a condition of license renewal.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

The Physician Assistant Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because this proposed amendment will only change a minor reporting requirement on a renewal form for a fraction of licensees who would report convictions on renewals.

This regulatory proposal will benefit the health and welfare of California residents because the Board would continue to receive disclosures of convictions reported by the licensees that may be substantially related to the practice of physician assistants. Consumers would continue to be protected from physician assistants who have convictions that relate to the practice of medicine since licensees must report any conviction, including a verdict of guilty, a guilty plea or no contest, of a felony or misdemeanor to the Board within thirty (30) days of the occurrence pursuant to section 1399.521.5 of Title 16 of the California Code of Regulations (Section 1399.521.5).

This regulatory proposal will not affect worker safety because the proposal does not involve worker safety. The proposal only changes a minor reporting requirement to the Board on renewals.

This regulatory proposal will not affect the state's environment because it does not involve environmental issues.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Name: Anita Winslow
Address: 2005 Evergreen Street, Suite 1100
Sacramento, CA 95815-3893

Telephone
No.: (916) 561-8782
Fax No.: (916) 263-2671
E-Mail
Address: anita.winslow@mbc.ca.gov

The backup contact person is:

Name: Lynn Forsyth
Address: 2005 Evergreen Street, Suite 1100
Sacramento, CA 95815-3893

Telephone
No.: (916) 561-8785
Fax No.: (916) 263-2671
E-Mail
Address: lynn.forsyth@mbc.ca.gov

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons,

the Physician Assistant Board's April 18, 2016 meeting minutes, the Physician Assistant Board's October 24, 2016 meeting minutes, DCA Health Care Related Board Table — Agenda Item 10c from the Board's April 18, 2016 Board meeting, and Traffic Infraction Fixed Penalty Schedule.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which 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 Board adopts the regulation as revised. Please send requests for copies of any modified regulations to the attention of Anita Winslow at the address indicated above. The Board will accept written comments on the modified regulation for 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 Ms. Winslow at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at: www.pac.ca.gov.

TITLE 16. PHYSICIAN ASSISTANT BOARD

The Physician Assistant Board (Board) proposes to adopt the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:00 a.m. on August 10, 2018**, in the **Spinnaker Room of the Sheraton San Diego Hotel and Marina** located at 1380 Harbor Island Drive, San Diego, California

92101. The Spinnaker Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 263-2671 or by e-mail to anita.winslow@mbc.ca.gov. The written comment period closes at **5:00 p.m. on August 10, 2018**. The Board will consider only comments received at the Board offices by that time. Submit comments to:

Anita Winslow, Regulatory Coordinator
Physician Assistant Board
2005 Evergreen Street, Suite 1100
Sacramento, CA 95815-3893

AUTHORITY AND REFERENCE

Business and Professions Code sections 2018, 3510, and 3521.3 authorize the Board to adopt this proposed regulation. The proposed regulation implements, interprets, and makes specific sections 208, 464, 3521.1, and 3521.3 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Physician assistants are licensed health care practitioners that perform authorized medical services under the supervision of a licensed physician and surgeon. The Physician Assistant Board (Board) licenses and regulates physician assistants pursuant to the Physician Assistant Practice Act (Business and Professions Code sections 3500 and following). Business and Professions Code section 3521.3 authorizes the Board to establish, by regulation, a system for the placement of a license on a retired status. The Board has received inquiries regarding options for those physician assistants who wish to retire from practice. Currently, physician assistants only have the option to allow their licenses to lapse (become delinquent, expire, or cancel), or be placed in an inactive status, which requires payment of a fee.

The purpose of the proposed regulation is to establish a regulation for the placement of a physician assistant license on a retired status, upon application, using proposed Form PAB-RET Oct 2016, which is incorporated

by reference at proposed Section 1399.515. This proposal would adopt a new section at 1399.515 to implement minimum eligibility requirements for a retired license, including, a practice prohibition, an application form, ineligibility criteria if the license is currently canceled, revoked or otherwise punitively restricted or if the licensee is actively practicing, exemption from renewal requirements, and fee waivers for renewal and initial implementation of the program. In addition, proposed Section 1399.515 would create criteria for the restoration of a retired license to active status and authorize the Board to investigate violations of these new proposed standards.

Anticipated Benefits of the Proposed Regulation:

This proposal would establish a consistent and simple process for obtaining a retired status license and would eliminate barriers for those physician assistants who wish to retire and have the option of placing their license in a retired status. It would also save costs for those selecting this status by not requiring payment of an application fee or renewal fee. Individuals who select this status within one year following adoption would also save costs associated with transitioning from delinquent to retired status. This proposal would also alleviate confusion for the public regarding the true status of an individual who does not wish to abandon his or her license, but rather simply retire from practice.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency:

In fiscal year 2016/2017 the Board processed 5,224 renewals. Of those renewals 45 percent were completed online by the licensee, therefore, the only cost to the Board would be the printing and mailing of the renewal application.

The cost to process a renewal is:

Print/mail renewal application	$5,224 \times \$2.25 = \$11,754$
Process renewal SSA @ 1 hr.	$2,873 \times \$48.23 = \$138,565$
Cashier renewal payment SSA @ .5 hr.	$2,873 \times \$24.12 = \$69,297$
Total	\$207,862

The average cost to process a renewal application is \$72.35.

The retired status application will be available to the licensee online at no cost to the Board for printing or mailing. The cost to process the retired status application is based on Board staff entering the new status into the database.

Process retired status application SSA @ .25 hr. $\times \$48.23 = \12.06

The cost savings to the Board is $\$72.35 - \$12.05 = \$60.29$

The Board anticipates 800 retired status applicants in the first year to request retired status. The Board could save \$48,240 in the first year and \$8,382 in the second year and ongoing in application processing costs.

First year savings $= \$60.29 \times 800 = \$48,232$

Second year and ongoing savings $= \$60.29 \times 139 = \$8,380$

The Physician Assistant Board has approximately 11,735 licensees for the 2016/2017 fiscal year. In the first year of implementation, Business and Professions Code section 3521.3(d) requires the Board to allow applicants to convert from delinquent status to retired status without reactivating the license; reactivation typically involves a fee. As a result, in the first year of implementation of this regulation, the Board does not anticipate any additional workload resulting from these regulations. The Board anticipates approximately 3 percent of active licensees, 100 percent of inactive licensees, and 25 percent of delinquent licensees to request retired status in the first year of implementation. The Board assumes 1 percent of active licensees to request retired status after the first year of implementation.

Revenue

For the fiscal year 2016/2017 the Board has 11,735 current licenses, 41 current-inactive licenses, and 1,628 delinquent licenses. Of these licenses the Board anticipates 3 percent of the current licenses, 100 percent of the inactive licenses, and 25% of the delinquent licenses to request a retired status within the first year of implementation of the regulation. The Board estimates that with these anticipated requests for retired status the decrease in revenue in the first year of implementation will be \$250,175. After the first year of implementation

and ongoing, the Board estimates a revenue decrease of \$41,700.

Currently there are 229 accredited programs within the country, of which 46 programs are in development. California currently has 14 accredited programs of which 1 program is on probation, 7 programs have provisional accreditation (as they are new programs) and 6 programs have continuing accreditation. There are currently 5 programs developing in California, which means that within the next 3-4 years there could be 19 programs within California; thus, the Board anticipates a minimum of a 9 percent growth in the number of applicants. The Board estimates that with this anticipated growth the increase in revenue in the first year of implementation will be \$316,800. After the first year of implementation and ongoing, the Board estimates a revenue increase of \$345,300.

The net gain in the first year of implementation is estimated to be \$66,625. After the first year of implementation and ongoing, the Board estimates a revenue net gain of \$303,600.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary 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 Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

Business Impact:

This regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

There is no business impact because this proposed regulation will establish a regulation for the placement of a license on a retired status for a physician assistant who is not actively engaged in practice as a physician assistant or any activity that requires them to be licensed by the board. Since physician assistants currently choose to go inactive, or allow their licenses to lapse or cancel when they retire, there would be no effect on businesses when an individual chooses merely to change his or her license title to "retired."

Effect on Small Business:

The Physician Assistant Board has determined that the proposed regulations would not affect small businesses because it would only affect those licensees who wish to retire.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Physician Assistant Board has determined that this regulatory proposal will not create or eliminate jobs, will not create new business or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California because it will allow individuals already retired from working as a physician assistant or considering retirement the opportunity to place a license on a retired status. Since physician assistants currently choose to go inactive, or allow their licenses to lapse or cancel when they retire, there would be no effect on the workforce related to a mere change in title to "retired."

This regulatory proposal would not affect worker safety because this proposal does not involve worker safety. The proposal establishes a regulation for the placement of a license on a retired status for a physician assistant who is not actively engaged in practice as a physician assistant or any activity that requires licensure by the board and meets other requirements.

Benefits of the Proposed Action: This regulatory proposal will benefit the health and welfare of California residents because if a consumer is searching for a physician assistant that they have seen through the public data base and a "retired" status is shown, the consumer would know the physician assistant is no longer allowed to practice. This proposal would also alleviate confusion for the public regarding the true status of an individual who does not wish to abandon his or her license, but rather simply retire from practice:

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Name: Anita Winslow
Address: 2005 Evergreen Street, Suite 1100
Sacramento, CA 95815-3893
Telephone No.: (916) 561-8782
Fax No.: (916) 263-2671
E-Mail Address: anita.winslow@mbc.ca.gov

The backup contact person is:

Name: Lynn Forsyth
Address: 2005 Evergreen Street, Suite 1100
Sacramento, CA 95815-3893
Telephone No.: (916) 561-8785
Fax No.: (916) 263-2671
E-Mail Address: lynn.forsyth@mbc.ca.gov

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board 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 Board adopts the regulation as revised. Please send requests for copies of any modified regulations to the attention of Anita Winslow at the address indicated above. The Board will accept written comments on the modified regulation for 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 Ms. Winslow at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulation in underline and strikeout, Business and Professions Code section 3521.3, and the Physician Assistant Board's October 24, 2016 and January 23, 2017 meeting minutes can be accessed through our website at: www.pac.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

CESA CONSISTENCY DETERMINATION REQUEST FOR

Critical Repairs Conducted Under Phase III of the
2017 Storm Damage Department of Water Resources
Emergency Rehabilitation (SDDER)
2080-2018-005-03
Sacramento, Yolo and Solano Counties

The California Department of Fish and Wildlife (CDFW) received a notice on May 31, 2018 that the Department of Water Resources proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the repair of levees that were impacted by erosion and other damage during the winter of 2016/2017. Proposed activities will include, but are not limited to, creation of temporary access roads, removal of vegetation and trash, removal of existing rocks and soils, and bank reconstruction using clean rock. The proposed project will occur at nine sites in Sacramento, Yolo, and Solano Counties, California.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (Service Ref. No. 08ESMF00-2018-F-1716) in a memorandum to the U.S. Army Corps of Engineers on April 18, 2018, and a reinstituted biological opinion (Service Ref. No. 08ESMF00-2018-F-1716-R001) on May 02, 2018, which considered the effects of the proposed project on

state and federally threatened giant garter snake (*Thamnophis gigas*) and state endangered and federally threatened delta smelt (*Hypomesus transpacificus*).

Pursuant to California Fish and Game Code section 2080.1, the Department of Water Resources is requesting a determination that the BO and its associated ITS are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, the Department of Water Resources will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF FISH AND WILDLIFE

PROPOSED RESEARCH ON FULLY PROTECTED SPECIES Modoc Sucker in Modoc County

The Department of Fish and Wildlife (Department) received a project proposal from Nolan Banish of the US Fish and Wildlife Service (Service) requesting authorization to capture Modoc Sucker (*Catostomus microps*), a Fully Protected Fish, to conduct necessary scientific research, consistent with the protection and recovery of the species.

After completion of a 5-year status review, the Service delisted the Modoc Sucker due to recovery under Endangered Species Act conditions. The Modoc Sucker was removed from the federal list of endangered and threatened wildlife on January 7, 2016. Section 4(g) of the ESA requires the Service to implement a system in cooperation with the states to monitor, for not less than five years, the status of all species that have recovered and have been removed from the list of threatened and endangered plants and animals. The Service published a post-delisting monitoring plan for the Modoc Sucker (USFWS 2015); the proposed sampling plan herein fulfills that federal agency requirement.

The Service proposes the use of visual surveys, backpack electrofishing, dip nets, and PIT tag detections to monitor the population status of the Modoc Sucker to detect any changes that may indicate negative impacts to the continued stability of the species. Monitoring under this plan will focus on Modoc Sucker distribution, abundance, and recruitment. In addition to these surveys, presence of threats will be documented during monitoring.

Multiple independent and concurrent visual surveys will be conducted at sites within occupied streams during a time of year (late spring and summer, depending on streamflow) when Modoc Suckers are detectable to determine presence or absence. Sites where Modoc Suckers are present will be further classified as having high (≥ 10) or low abundance (1–9). Modoc Suckers will be captured by backpack electrofishing and/or dip nets to evaluate the influence of fish length and physical habitat on sampling efficiency. To complete this evaluation, Modoc Suckers may be marked with either small (8– to 12–millimeter) passive integrated transponder (PIT) tags, floy tags, or a visible implant (tag/dye).

If the Department determines that the proposed research is consistent with the requirements of Fish and Game Code section 5515 for take of Fully Protected Fish, it will issue the authorization in the form of a memorandum of understanding (MOU) on or after July 15, 2018 for an initial term through December 31, 2018. At its discretion, the Department may authorize additional locations and/or methods and renew the MOU without public notice upon request by the applicant.

Pursuant to California Fish and Game Code, section 5515 subdivision (a)(1), the Department may authorize take of Fully Protected Fish for necessary scientific research only after a 30-day notice has been provided to affected and interested parties through publication of this notice, seeking relevant information and comments regarding the proposed authorization.

Relevant information and comments regarding this proposed MOU may be directed to: Fisheries Branch, 830 S Street Sacramento, CA 95811, Attn: Leslie Alber. Please reference this Notice in your correspondence.

ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

DEPARTMENT OF CORRECTIONS AND REHABILITATION

ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

(Pursuant to title 1, section 270, of the
California Code of Regulations)

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Elizabeth Heidig, Assistant Chief Counsel
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

George Hamilton, K-5488S
Kern Valley State Prison
Post Office Box 5102 (B-3 #121)
Delano, California 93216

Agency contact:

Ying Sun, RPMB
Department of Corrections and Rehabilitation
Regulations and Policy Management Branch
Post Office Box 942883
Sacramento, California 94283-0001

Please note the following timelines:

Publication of Petition in Notice Register:

June 15, 2018

Deadline for Public Comments: July 16, 2018

Deadline for Agency Response: July 30, 2018

Deadline for Petitioner Rebuttal: No later than 15
days after receipt of the agency's response

Deadline for OAL Decision: October 15, 2018

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

NOT E TO:

PETITION TO THE OFFICE OF ADMINISTRATIVE LAW

RE: Alleged Underground Regulation
 FROM: GEORGE HAMILTON #K-54885 (Petitioner)
 DATE: 3-25-2018

MS. DEBRA M. CORNEZ
 DIRECTOR
 OFFICE OF ADMINISTRATIVE
 LAW
 300 CAPITOL MALL #125C
 SACRAMENTO, CALIF -
 95814

Use of this form is entirely optional. It requests the information required by Title 1, California Code of Regulations, section 260, for a petition challenging an alleged underground regulation. Although you are not required to use this specific form, the mandatory information required by 1 CCR 260, including the supporting documentation, must be included somehow in your petition. If you create a separate petition, or if you use this form and need to add extra pages, be sure that each page is labeled clearly.

1. Identifying Information:

Your name: GEORGE HAMILTON #K-54885

Your address: KERN VALLEY STATE PRISON (KUSP), P.O. BOX -
 5102, B-3 #121, DELANO, CALIF - 93216

Your telephone number (if you have one):

Your email (if you have one):

2. State agency or department being challenged:

CALIF. DEPT. OF CORRECTIONS AND REHABILITATION (CDCR)

3. Provide a complete description of the purported underground regulation. Attach a written copy of it. If the purported underground regulation is found in an agency manual, identify the specific provision of the manual alleged to comprise the underground regulation. Please be as precise as possible.

(SEE CDCR MEMORANDUM DATED 8-19-2015, COMPAS, WITH
 AMENDED 15 CCR § 3375.6, ATTACHED PERMANENTLY
 HERETO AND INCORPORATED BY REFERENCE).

(PLEASE SEE ATTACHED SHEETS)

4. Provide a description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulation.

(PLEASE SEE ATTACHED SHEETS)

RECEIVED

APR 02 2018

STATE OF CALIFORNIA
 OFFICE OF
 ADMINISTRATIVE LAW

PAGE: 1 OF 8

Petitioner's Name: GEORGE HAMILTON
K-54885

Date: 3-25-2018 Page 2

5. State the legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code AND that no express statutory exemption to the requirements of the APA is applicable.

(PLEASE SEE ATTACHED SHEETS)

6. Provide information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution.

CDCR AS A STATE LAW ENFORCEMENT AGENCY, WHO, SAYS A OATH TO COMPLY WITH ALL STATE AND FEDERAL LAWS, IS "NOT ABOVE THE LAW," AND HAVE A "MANDATORY DUTY TO COMPLY WITH THE APA," THE UNDERGROUND REGULATION, IS SANCTIONING NUMEROUS DISCIPLINARY PUNISHMENTS, "ILLEGALLY".

7. (Optional) Please attach any additional relevant information that will assist OAL in evaluating your petition.

(ALL RELEVANT DOCUMENTS IS ATTACHED, OAL MUST OBTAIN COMPAS- SCHEME FROM CDCR DURING HEARINGS).

8. Certifications:

I certify that I have submitted a copy of this petition and all attachments to:

Name: BENJAMIN RICE, GENERAL COUNSEL

Agency: CALIF., DEPT. OF CORRECTIONS, AND REHABILITATION,

Address: OFFICE OF LEGAL AFFAIRS, 1515 "S" ST.,

RM. 127 - N, SACRAMENTO, CALIF - 95814

Telephone number:

(916) 323-6001; (916) 445-7682

I certify that all of the above information is true and correct to the best of my knowledge.


Signature of Petitioner

GEORGE HAMILTON #K-54885

3-25-2018
Date

PAGE: 2 OF 8

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2018-0417-02

AIR RESOURCES BOARD

Cap and Trade Regulation

In this regular rulemaking, the Air Resources Board is amending the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation to (1) revise regulations related to changes of facility ownership; (2) revise the procedure for establishing the Auction Reserve Price by comparing the California Auction Reserve Price with the Auction Reserve Prices set by all linked jurisdictions (currently Québec and Ontario) when expressed in a common currency and selecting the highest value.

Title 17

AMEND: 95835, 95911

Filed 05/30/2018

Effective 05/30/2018

Agency Contact: Bradley Bechtold (916) 322-6533

File# 2018-0525-01

BUREAU OF CANNABIS CONTROL

Commercial Cannabis Regulation

This is a readoption of emergency rulemaking action no. 2017-1127-05E, which provides licensing and enforcement criteria for commercial cannabis businesses in California, including distributors, retailers, microbusinesses, temporary cannabis events, and testing laboratories. These regulations inform applicants for licensure of the applicable meaning of key statutory terms, identify the documents and supplemental information required in an application, and provide specific clarification of terms, prohibitions, and conditions for compliance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), found in Business & Professions Code, section 26000 et seq. This is a deemed emergency action pursuant to section 26013, subdivision (b)(3), of the Business & Professions Code.

Title 16

ADOPT: 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5425, 5426, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5600, 5601, 5602, 5603, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814

Filed 06/04/2018

Effective 06/06/2018

Agency Contact:

Ashlynn Blackshire

(916) 465-9030

File# 2018-0418-01

BUREAU OF REAL ESTATE

Broker Associates Tracking

This rulemaking action by the Bureau of Real Estate amends the requirements for notification of the Bureau, regarding the hiring or termination of a broker acting as a salesperson. The changes require a broker who hires another broker to act as a salesperson or terminates another broker acting as a salesperson to notify the Bureau.

Title 10

AMEND: 2715, 2728.5, 2752

Filed 05/31/2018

Effective 05/31/2018

Agency Contact: Daniel Kehew (916) 263-8681

File# 2018-0522-01

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY

Residential Energy Efficiency Loan Assistance Program

This is the second readoption of emergency rulemaking action no. 2017-0823-04E (first readopted in 2018-0222-01EE), which revises and updates provisions related to the Residential Energy Efficiency Loan ("REEL") Assistance Program, one of several pilot programs for which the Authority is responsible.

Title 4

AMEND: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.12, 10091.13, 10091.14, 10091.15

Filed 05/30/2018

Effective 06/05/2018

Agency Contact: Susan Mills (916) 651-3760

File# 2018-0425-02

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Training and Testing Specifications

In this rulemaking action, the Commission amends various sections in Title 11 of the California Code of Regulations to update the Training and Testing Specifications for Peace Officer Basic Courses, which is a document incorporated by reference. The update removes Learning Domains 2, 3, 26, 31, 36, and 43.

Title 11

AMEND: 1005, 1007, 1008

Filed 06/05/2018

Effective 07/01/2018

Agency Contact: Windy Kaiser (916) 227-4537

File# 2018-0502-02

DEPARTMENT OF FOOD AND AGRICULTURE

Huanglongbing (HLB) Disease Interior Quarantine

This Certificate of Compliance action submitted by the Department of Food and Agriculture makes permanent the prior emergency action (OAL file no. 2017-1205-02E) that expanded the quarantine area for Huanglongbing ("HLB") disease in the Pico Rivera area of Los Angeles County. The quarantine area was expanded by approximately four square miles in response to the confirmation on November 9, 2017, of the presence of HLB from suspect citrus tissue samples collected in the Pico Rivera area. The current action provides authority for the state to permanently perform quarantine activities against HLB within the expanded area.

Title 3

AMEND: 3439(b)

Filed 05/30/2018

Effective 05/30/2018

Agency Contact: Rachel Avila (916) 403-6813

File# 2018-0525-03

DEPARTMENT OF FOOD AND AGRICULTURE

Cannabis Cultivation Licensing

The Department of Food and Agriculture submitted this deemed emergency action to re-adopt emergency regulations that implement statutes under the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

The proposed regulations address the licensing of commercial cannabis cultivation operations in California and the statewide track-and-trace system, which will track activities of commercial cannabis and cannabis products from cultivation through the distribution chain.

Title 3

ADOPT: 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608

Filed 06/04/2018

Effective 06/06/2018

Agency Contact: Amanda Brown (916) 263-0801

File# 2018-0426-04

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Income Limits

This regulatory action by the Department of Housing and Community Development (the "Department") is the annual update of income limits for households of varying sizes. The Department transmitted this action to the Office of Administrative Law ("OAL") for filing with the Secretary of State and publishing in the California Code of Regulations pursuant to Health and Safety Code section 50093. This filing is exempt from the rulemaking requirements of Articles 5 and 6 of Chapter 3.5 of the Administrative Procedure Act, and, therefore, is not subject to OAL's review. (Health and Saf. Code, sec. 50093.) This regulation is effective April 26, 2018, the date the regulations were filed with OAL, pursuant to Health and Safety Code section 50093.

Title 25

ADOPT: 6932

REPEAL: 6932

Filed 06/04/2018

Effective 04/26/2018

Agency Contact: Zach Olmstead (916) 263-5883

File# 2018-0521-03

DEPARTMENT OF JUSTICE

Department of Industrial Relations Bond Form

This action, submitted by the Department of Justice pursuant to Government Code section 11343.8, is a request to file with the Secretary of State the bond form of the Department of Industrial Relations, titled "Foreign Labor Contractor Bond," and to print the title of the

adopted bond form in Article 18 of Chapter 2 of Division 1 of Title 11 of the California Code of Regulations, at section 49.18.

Title 11
ADOPT: 49.18
Filed 06/05/2018
Effective 06/05/2018
Agency Contact: Cara M. Porter (415) 510-3508

File# 2018-0417-01
DEPARTMENT OF MOTOR VEHICLES
Ignition Interlock Devices

This regular rulemaking action amends two sections to adopt requirements for random retests by Ignition Interlock Devices (IID) and adopt new form OL 624 for certification of an IID's compliance random retest requirements. This action also adopts one new section regarding re-imposing the restriction of an IID after the restriction has been terminated and repeals one section in response to the repeal of Vehicle Code section 13386(g) which previously required manufacturers submit annual reports regarding false positives and rest times to the Department of Motor Vehicles.

Title 13
ADOPT: 125.19 AMEND: 125.00, 125.02
REPEAL: 127.06
Filed 05/30/2018
Effective 07/01/2018
Agency Contact: Randi Calkins (916) 657-8898

File# 2018-0525-02
DEPARTMENT OF PUBLIC HEALTH
Emergency Cannabis Regulations — Cannabis Manufacturing Licensing

This emergency rulemaking action by the Department of Public Health readopts eighty sections in chapter 13 of division 1 of title 17 of the California Code of Regulations in response to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Senate Bill 94, Stats. 2017, Ch. 27). This action will: 1) establish the licensing scheme, including temporary licenses, for manufacturers of manufactured cannabis products, including the requirements for applications and the individuals or entities that are required to submit applications; 2) establish licensing fees; 3) set minimum standards for extraction processes; 4) set minimum standards for sanitary manufacturing practices; 5) establish licensee responsibilities for operations including requirements related to security, training, recordkeeping, and disposal; 6) establish quality and safety standards for finished manufactured cannabis products; and 7) establish packaging and labeling standards for manufactured cannabis products.

Title 17
ADOPT: 40100, 40101, 40102, 40115, 40116, 40118, 40126, 40128, 40129, 40130, 40131, 40133, 40135, 40137, 40150, 40155, 40156, 40159, 40162, 40165, 40167, 40169, 40175, 40177, 40178, 40180, 40182, 40200, 40205, 40220, 40222, 40223, 40225, 40232, 40234, 40236, 40238, 40240, 40242, 40250, 40252, 40254, 40256, 40258, 40260, 40262, 40264, 40266, 40268, 40270, 40272, 40275, 40277, 40280, 40282, 40290, 40292, 40300, 40305, 40306, 40310, 40400, 40401, 40403, 40405, 40406, 40408, 40410, 40411, 40412, 40415, 40500, 40510, 40512, 40513, 40515, 40517, 40525, 40550, 40601
Filed 06/04/2018
Effective 06/06/2018
Agency Contact: Linda M. Cortez (916) 440-7807

File# 2018-0424-06
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
Operator Qualification and Certification — Effective Dates

This action extends the effective date for operator qualification and certification of cranes and derricks to conform to the federal deadline. This action is exempt from Articles 5 and 6 of the Administrative Procedure Act, and therefore, from OAL review pursuant to Labor Code section 142.3.

Title 8
AMEND: 1618.1
Filed 05/30/2018
Effective 05/30/2018
Agency Contact: Marley Hart (916) 274-5721

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN January 3, 2018 TO June 6, 2018

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1
05/21/18 AMEND: 44

Title 2
05/17/18 ADOPT: 11027.1 AMEND: 11028
05/16/18 ADOPT: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157, 20158,

	20159, 20160, 20161, 20162, 20163, 20164, 20165	01/11/18	ADOPT: 20202, 20203, 20204, 20205, 20206, 20207, 20208, 20209, 20210, 20211, 20212, 20213, 20214, 20222, 20223, 20224, 20228, 20235, 20260, 20261, 20262, 20263, 20264, 20265, 20266, 20267, 20268, 20270, 20271, 20272, 20273, 20274, 20275, 20276, 20277, 20278, 20279, 20280 AMEND: 20200, 20201, 20213 (Renumbered 20215), 20214 (Renumbered 20216), 20216 (Renumbered 20217), 20217 (Renumbered 20218), 20220, 20220.5 (Renumbered 20260), 20221, 20222 (Renumbered 20225), 20223 (Renumbered 20226), 20224 (Renumbered 20232), 20227, 20225 (Renumbered 20230), 20226 (Renumbered 20229), 20230 (Renumbered 20231), 20235 (Renumbered 20233), 20236 (Renumbered 20234), 20247 (Renumbered 20236), 20249.5 (Renumbered 20237), 20250 (Renumbered 20238), 20255 (Renumbered 20250), 20258 (Renumbered 20240), 20260 (Renumbered 20241), 20261 (Renumbered 20242), 20265 (Renumbered 20251), 20266 (Renumbered 20252), 20267 (Renumbered 20253) REPEAL: 20202, 20203, 20204, 20205, 20206, 20207, 20208, 20209, 20210, 20211, 20212, 20215, 20245, 20249, 20251, 20252, 20253, 20254, 20256, 20257, 20259, 20262	
05/16/18	ADOPT: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157, 20158, 20159, 20160, 20161, 20162, 20163, 20164, 20165		01/11/18	ADOPT: 20130, 20131, 20132, 20133, 20134, 20135, 20136, 20137, 20138
05/09/18	AMEND: 321		01/08/18	ADOPT: 20140, 20141, 20142, 20143, 20144
05/09/18	AMEND: 11034			
04/25/18	AMEND: 18401		Title 3	
04/25/18	AMEND: 18450.1		06/04/18	ADOPT: 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608
04/23/18	ADOPT: 1859.90.4 AMEND: 1859.2, 1859.90, 1859.90.2, 1859.90.5		05/30/18	AMEND: 3439(b)
04/16/18	AMEND: 1859.2, 1859.51, 1859.70, 1859.82, 1859.93.1			
04/12/18	AMEND: 1859.2, 1859.81			
04/04/18	AMEND: 41000			
04/02/18	ADOPT: 243, 243.1, 243.2, 243.3, 243.4, 243.5, 243.6, 548.120, 548.120.1, AMEND: 249, 266, 266.1, 266.2, 266.3, 548.121, 548.122, 548.123, 548.124			
04/02/18	AMEND: 38000, 38000.5, 38000.10			
03/20/18	AMEND: 18746.1, 18746.4			
03/20/18	AMEND: 18746.3			
03/20/18	REPEAL: 18901			
03/14/18	ADOPT: 61200, 61201, 61210, 61211, 61212, 61213, 61214, 61215, 61216, 61217			
03/12/18	AMEND: 586.1(a)			
03/12/18	ADOPT: 599.855			
03/08/18	ADOPT: 20020, 20021, 20022, 20023, 20024, 20025, 20026, 20027			
02/27/18	AMEND: 1181.2, 1181.3, 1182.2, 1182.7, 1182.9, 1182.10, 1182.15, 1183.1, 1183.2, 1183.3, 1183.4, 1183.6, 1183.8, 1183.9, 1183.10, 1183.11, 1183.12, 1183.13, 1183.15, 1183.16, 1183.17, 1184.1, 1185.1, 1185.2, 1185.3, 1185.7, 1185.8, 1186.2, 1186.4, 1187.5, 1187.7, 1187.8, 1187.9, 1187.12, 1187.14, 1187.15, 1190.1, 1190.2, 1190.3, 1190.5			
02/22/18	AMEND: 58100			
02/22/18	AMEND: 59800			
02/13/18	AMEND: 18420.1, 18432.5, 18440, 18531.10, 18533, 18901.1 REPEAL: 18450.4			
02/13/18	AMEND: 18535			
02/13/18	AMEND: 18247.5, 18402, 18420, 18423, 18435, 18450.5, 18521.5 REPEAL: 18225, 18450.3			
02/13/18	AMEND: 11034			
02/07/18	AMEND: 56800			
01/23/18	AMEND: 59530			
01/18/18	AMEND: 18351			

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05/24/18 AMEND: 3439(b)
 05/24/18 AMEND: 6502
 05/18/18 AMEND: 3439(b)
 04/30/18 AMEND: 3439(b)
 04/04/18 AMEND: 3591.15
 03/27/18 AMEND: 3439(b)
 03/26/18 AMEND: 3439(b)
 03/13/18 AMEND: 3591.15
 03/01/18 AMEND: 6628
 02/27/18 AMEND: 3439(b)
 02/16/18 AMEND: 3439(b)
 02/12/18 AMEND: 6000, 6739
 01/29/18 AMEND: 3439(b)
 01/29/18 AMEND: 3439(b)
 01/25/18 ADOPT: 2852.5 AMEND: 2850, 2851,
 2852, 2853, 2854, 2855, 2856
 01/24/18 AMEND: 2
 01/22/18 AMEND: 3439(b)
 01/18/18 AMEND: 3439(b)
 01/16/18 AMEND: 3439(b)
 01/16/18 AMEND: 3424(c), 3591.12
 01/16/18 AMEND: 3439(b)
 01/03/18 AMEND: 3435(b)

Title 4

05/30/18 AMEND: 10091.1, 10091.2, 10091.3,
 10091.4, 10091.5, 10091.6, 10091.7,
 10091.8, 10091.9, 10091.10, 10091.12,
 10091.13, 10091.14, 10091.15
 05/25/18 AMEND: 5000, 5033, 5035, 5037, 5054,
 5060, 5101, 5102, 5120, 5144, 5170,
 5191, 5212, 5230, 5240, 5250, 5540
 REPEAL: 5259
 05/17/18 AMEND: 12590
 05/15/18 AMEND: 12204, 12220, 12238, 12560
 04/30/18 AMEND: 10170.2, 10170.3, 10170.4,
 10170.5, 10170.6, 10170.7, 10170.9,
 10170.10
 04/10/18 AMEND: 10179
 04/09/18 ADOPT: 5700, 5710, 5711, 5720, 5721,
 5722, 5730, 5731 AMEND: 5000, 5020,
 5100
 03/29/18 AMEND: 7051, 7054, 7055, 7056, 7063,
 7071
 03/22/18 AMEND: 1699
 03/15/18 ADOPT: 8078.22, 8078.23, 8078.24,
 8078.25, 8078.26, 8078.27, 8078.28,
 8078.29, 8078.30, 8078.31, 8078.32,
 8078.33, 8078.34, 8078.35 AMEND:
 8070, 8071, 8072, 8073, 8074, 8076,
 8078.3 REPEAL: 8078.1, 8078.2
 03/13/18 AMEND: 5032, 5033, 5170, 5180, 5190,
 5193, 5194, 5230, 5240, 5255, 5260,
 5342, 5350, 5400, 5700

03/05/18 AMEND: 10091.1, 10091.2, 10091.3,
 10091.4, 10091.5, 10091.6, 10091.7,
 10091.8, 10091.9, 10091.10, 10091.12,
 10091.13, 10091.14, 10091.15
 02/23/18 ADOPT: 7213, 7214, 7215, 7216, 7217,
 7218, 7219, 7220, 7221, 7222, 7223,
 7224, 7225, 7227, 7228, 7229
 02/22/18 AMEND: 10302, 10305, 10315, 10317,
 10320, 10322, 10325, 10326, 10327,
 10328, 10330, 10335, 10337 REPEAL:
 10325.5
 02/21/18 AMEND: 1865
 02/21/18 AMEND: 1689, 1689.1
 02/15/18 AMEND: 10302, 10305, 10315, 10317,
 10320, 10322, 10325, 10326, 10327,
 10328, 10330, 10335, 10337
 01/25/18 AMEND: 1685, 1688
 01/24/18 ADOPT: 4002.10, 4206, 4207 AMEND:
 4001, 4200, 4201
 01/17/18 AMEND: 12386, 12391, 12566
 01/09/18 ADOPT: 1597.5, 1597.6 AMEND: 1554,
 1581.1, 1588, 1597, 1853
 01/08/18 AMEND: 12120, 12303, 12362

Title 5

05/18/18 ADOPT: 11301, 11309, 11310, 11311,
 11312 AMEND: 11300, 11316 REPEAL:
 11301, 11309, 11310
 05/08/18 AMEND: 75020
 04/30/18 AMEND: 41906.5, 41906.6
 04/30/18 AMEND: 42909
 02/26/18 ADOPT: 71396
 02/20/18 ADOPT: 11526 AMEND: 11520, 11524,
 11525
 02/20/18 ADOPT: 11534.1 AMEND: 11530,
 11533, 11534
 01/29/18 AMEND: 19810
 01/29/18 AMEND: 40601, 40803, 40804,
 40804.1, 40806, 40900, 40901
 01/25/18 ADOPT: 854.1, 854.2, 854.3, 854.4,
 854.5, 854.9 AMEND: 850, 851, 851.5,
 853, 855, 856, 859 REPEAL: 853.5,
 853.6, 853.7, 853.8
 01/22/18 AMEND: 27000
 01/11/18 AMEND: 9517.3

Title 8

05/30/18 AMEND: 1618.1
 05/17/18 ADOPT: 11770, 11771, 11771.1,
 11771.2, 11772, 11773
 05/08/18 AMEND: 31001, 32020, 32030, 32040,
 32050, 32055, 32060, 32075, 32080,
 32085, 32090, 32091, 32100, 32105,
 32120, 32122, 32130, 32132, 32135,
 32136, 32140, 32142, 32145, 32147,

32149, 32150, 32155, 32162, 32164,
 32165, 32166, 32168, 32169, 32170,
 32175, 32176, 32178, 32180, 32185,
 32190, 32200, 32205, 32206, 32207,
 32209, 32210, 32212, 32215, 32220,
 32230, 32295, 32300, 32305, 32310,
 32315, 32320, 32325, 32350, 32360,
 32370, 32375, 32380, 32400, 32410,
 32450, 32455, 32460, 32465, 32470,
 32500, 32602, 32605, 32612, 32615,
 32620, 32621, 32625, 32630, 32635,
 32640, 32644, 32645, 32647, 32648,
 32649, 32650, 32661, 32680, 32690,
 32700, 32720, 32721, 32722, 32724,
 32726, 32728, 32730, 32732, 32734,
 32735, 32736, 32738, 32739, 32740,
 32742, 32744, 32746, 32748, 32750,
 32752, 32754, 32761, 32762, 32763,
 32770, 32772, 32774, 32776, 32980,
 32990, 32992, 32993, 32994, 32995,
 32996, 32997 REPEAL: 32036, 32037,
 32610, 32611, 32806, 32808, 32810,
 95000, 95010, 95020, 95030, 95040,
 95045, 95050, 95070, 95080, 95090,
 95100, 95150, 95160, 95170, 95180,
 95190, 95200, 95300, 95310, 95320,
 95330
 05/08/18 AMEND: 9789.31, 9789.32, 9789.39
 04/27/18 AMEND: 9789.25
 03/19/18 AMEND: 344.18
 03/09/18 ADOPT: 3345
 02/27/18 ADOPT: 2320.11, 2940.11, 2940.12,
 2940.13, 2940.14, 2940.15, 2940.16,
 2940.17, 2940.18, 2940.19, 2943.1,
 2944.1, 3428 AMEND: 2300, 2320.2,
 2320.7, 2320.8, 2340.17, 2700, 2887,
 2940, 2940.1, 2940.2, 2940.5, 2940.6,
 2940.7, 2940.8, 2940.10, 2941, 2941.1,
 2943, 2944, 2945, 2946, 2951, 3314,
 3389, 3422, 3425, 5156, 8617 REPEAL:
 2893
 02/07/18 ADOPT: 9788.1, 9788.2, 9788.3, 9788.4,
 9788.5, 9788.6
 01/24/18 REPEAL: 16410, 16411, 16412, 16413,
 16414
 01/11/18 ADOPT: 9792.23.10, 9792.23.11,
 9792.23.12 AMEND: 9792.20, 9792.22,
 9792.23, 9792.23.1, 9792.23.2,
 9792.23.3, 9792.23.4, 9792.23.5,
 9792.23.6, 9792.23.7, 9792.23.8,
 9792.23.9, 9792.24.1, 9792.24.2,
 9792.24.3, 9792.24.4
 01/08/18 AMEND: 336

Title 9

05/17/18 AMEND: 3850, 3850.010
 05/14/18 AMEND: 3560, 3560.010, 3560.020,
 3705, 3726, 3735, 3750, 3755
 05/08/18 ADOPT: 4020, 4020.1
 03/20/18 AMEND: 7140.5
 02/12/18 ADOPT: 4020, 4020.1
 01/16/18 AMEND: 7140.5
 01/12/18 AMEND: 4350

Title 10

05/31/18 AMEND: 2715, 2728.5, 2752
 05/22/18 AMEND: 2498.6
 04/20/18 ADOPT: 6520, 6522, 6524, 6526, 6528,
 6530, 6532, 6534, 6538
 03/27/18 AMEND: 30.60 REPEAL: 30.105
 03/26/18 AMEND: 2318.6, 2353.1, 2354
 03/26/18 AMEND: 2318.6, 2353.1
 03/22/18 AMEND: 3525, 3527, 3561, 3569, 3570,
 3575, 3602, 3603, 3681
 03/20/18 AMEND: 3541
 03/07/18 AMEND: 6656, 6657, 6660, 6664
 02/23/18 AMEND: 2644.18, 2644.20
 01/29/18 AMEND: 6704, 6708, 6710
 01/23/18 AMEND: 2498.4.9
 01/22/18 AMEND: 2498.6
 01/17/18 AMEND: 2498.6
 01/17/18 AMEND: 2498.5

Title 11

06/05/18 AMEND: 1005, 1007, 1008
 06/05/18 ADOPT: 49.18
 05/21/18 ADOPT: 5505, 5506, 5507, 5508, 5509,
 5510, 5511, 5512, 5513, 5514, 5515,
 5516, 5517, 5518, 5519, 5520, 5521,
 5522
 04/11/18 ADOPT: 118.1
 04/03/18 AMEND: 51.26
 04/03/18 ADOPT: 51.30
 03/29/18 AMEND: 2021
 03/13/18 AMEND: 1045
 03/07/18 AMEND: 115.1
 03/07/18 AMEND: 115.2
 03/07/18 AMEND: 115.3
 03/07/18 AMEND: 115.4
 03/07/18 AMEND: 115.5
 02/27/18 AMEND: 1951, 1953, 1954, 1955, 1956,
 1959, 1960
 02/22/18 AMEND: 1009
 02/22/18 AMEND: 1001, 1005, 1008
 02/22/18 ADOPT: 80.4
 01/30/18 AMEND: 20
 01/29/18 ADOPT: 26.20

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01/16/18 AMEND: 2084, 2086, 2088, 2089, 2090,
2091, 2092, 2095, 2096, 2107, 2109

Title 13

05/30/18 ADOPT: 125.19 AMEND: 125.00,
125.02 REPEAL: 127.06
05/07/18 AMEND: 423.00
04/26/18 AMEND: 1153
04/18/18 AMEND: 1151.9.1
03/12/18 AMEND: Appendix (Article 2.0)
02/27/18 ADOPT: 1267.1 AMEND: 1201, 1217,
1232, 1242, 1268, 1269
02/26/18 ADOPT: 227.38, 227.40, 227.42, 228.00,
228.02, 228.04, 228.06, 228.08, 228.10,
228.12, 228.14, 228.16, 228.18, 228.20,
228.22, 228.24, 228.26, 228.28
AMEND: 227.02, 227.04, 227.12,
227.14, 227.16, 227.18, 227.20, 227.22,
227.24, 227.26, 227.28, 227.30, 227.32,
227.34, 227.36, 227.38, 227.40, 227.42,
227.44, 227.46, 227.48, 227.50, 227.52,
227.54
02/15/18 AMEND: 170.00 renumbered as 206.00,
170.02 renumbered as 206.02, 170.04
renumbered as 206.04, 170.06
renumbered as 206.06, 170.08
renumbered as 206.08, 170.10
renumbered as 206.10, 170.12
renumbered as 206.12, 171.00
renumbered as 206.20, 171.02
renumbered as 206.22, 172.00
renumbered as 206.30, 172.05
renumbered as 206.35, 172.10
renumbered as 206.40, 173.00
renumbered as 206.50, 173.02
renumbered as 206.52, 173.04
renumbered as 206.54, 173.06
renumbered as 206.56, 173.08
renumbered as 206.58, 174.00
renumbered as 206.60, 180.00
renumbered as 206.62, 180.02
renumbered as 206.64, and 181.00
renumbered as 206.66
02/13/18 AMEND: 553.70
02/01/18 AMEND: 1212.5, 1218, 1239, 1264
01/25/18 AMEND: 1152.3

Title 14

05/24/18 ADOPT: 3803.1, 3803.2, 3803.3
AMEND: 3802, 3803
05/16/18 AMEND: 131
05/16/18 AMEND: 131
05/10/18 ADOPT: 29.11
05/09/18 AMEND: 18660.5, 18660.10, 18660.21,
18660.34

05/01/18 ADOPT: 650 AMEND: 703 REPEAL:
650

04/24/18 AMEND: 131
04/19/18 AMEND: 4800
04/02/18 AMEND: 265
04/02/18 ADOPT: 749.9
03/29/18 AMEND: 29.15
03/27/18 AMEND: 1038, 1299.03, 1666.0
03/02/18 AMEND: 120.7, 705
03/02/18 ADOPT: 197
02/27/18 ADOPT: 1.18, 2.05 AMEND: 1.05, 1.11,
1.61, 2.10, 2.25, 5.35, 5.41, 5.88, 7.00,
7.50, 8.00 REPEAL: 1.60
02/27/18 AMEND: 150, 150.02, 150.03, 705
02/22/18 ADOPT: 131
02/20/18 AMEND: 13800
02/07/18 AMEND: 3697, 3698, 3699
02/06/18 AMEND: 1038
01/25/18 AMEND: 1038
01/03/18 AMEND: 18943, 18944, 18945.1

Title 15

05/15/18 AMEND: 3000, 3030, 3190, 3269
05/01/18 ADOPT: 2449.1, 2449.2, 2449.3, 2449.4,
2449.5, 2449.6, 2449.7, 3043.1, 3043.2,
3043.3, 3043.4, 3043.5, 3043.6, 3490,
3491, 3492, 3493 AMEND: 3043, 3043.5
(renumbered to 3043.7), 3043.6
(renumbered to 3043.8), and 3044
REPEAL: 2449.2, 2449.3, 2449.5, 3042,
3043.1, 3043.2, 3043.3, 3043.4, 3043.7
04/17/18 ADOPT: 2240 REPEAL: 2240
04/09/18 AMEND: 3016, 3315
03/05/18 ADOPT: 3378.9, 3378.10 AMEND:
3000, 3023, 3043.8, 3044, 3084.9, 3269,
3335, 3337, 3341, 3341.2, 3341.3,
3341.5, 3341.6, 3341.8, 3341.9, 3375,
3375.1, 3375.2, 3376, 3376.1, 3378,
3378.1, 3378.2, 3378.3, 3378.4, 3378.5,
3378.6, 3378.7, 3378.8 REPEAL: 3334
03/01/18 ADOPT: 3349.1, 3349.2, 3349.3, 3349.4,
3349.5, 3349.6, 3349.7, 3349.8, 3349.9
AMEND: 3349
02/07/18 ADOPT: 3999.24
02/05/18 AMEND: 1006, 1062
02/01/18 ADOPT: 3087, 3087.1, 3087.2, 3087.3,
3087.4, 3087.5, 3087.6, 3087.7, 3087.8,
3087.9, 3087.10, 3087.11, 3087.12

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5053, 5054, 5055, 5300, 5301, 5302,
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5405, 5406, 5407, 5408, 5409, 5410,
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5423, 5424, 5425, 5426, 5500, 5501,
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5703, 5704, 5705, 5706, 5707, 5708,
5709, 5710, 5711, 5712, 5713, 5714,
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5739, 5800, 5801, 5802, 5803, 5804,
5805, 5806, 5807, 5808, 5809, 5810,
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05/15/18 AMEND: 1399.395
04/20/18 AMEND: 1749
03/19/18 AMEND: 4422
03/14/18 AMEND: 1805.1, 1811
03/05/18 AMEND: 2070, 2071
03/01/18 AMEND: 9.1, 12, 12.1, 12.5, 15.1, 16, 19,
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01/25/18 ADOPT: 1715.65
01/17/18 AMEND: 1760
01/17/18 AMEND: 420.1 REPEAL: 424.5
01/11/18 AMEND: 427.10, 427.30
01/03/18 AMEND: 1937.11

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06/04/18 ADOPT: 40100, 40101, 40102, 40115,
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40130, 40131, 40133, 40135, 40137,
40150, 40155, 40156, 40159, 40162,
40165, 40167, 40169, 40175, 40177,
40178, 40180, 40182, 40200, 40205,
40220, 40222, 40223, 40225, 40232,
40234, 40236, 40238, 40240, 40242,
40250, 40252, 40254, 40256, 40258,
40260, 40262, 40264, 40266, 40268,
40270, 40272, 40275, 40277, 40280,
40282, 40290, 40292, 40300, 40305,
40306, 40310, 40400, 40401, 40403,
40405, 40406, 40408, 40410, 40411,
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05/30/18 AMEND: 95835, 95911

05/23/18 ADOPT: 51101, 51102, 51103, 51104,
51105, 51106

05/07/18 ADOPT: 98201, 98202, 98203

04/20/18 AMEND: 6000, 6025, 6035, 6040, 6045,
6050, 6051, 6055, 6060, 6065, 6070,
6075 REPEAL: 6015, 6020

04/13/18 ADOPT: 40127, 40132, 40190, 40191,
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03/15/18 AMEND: 30145, 30145.1, 30205,
30231, 30275, 30278.1, 30309, 30310,
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05/08/18 ADOPT: 30100, 30101, 30102, 30201,
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30805, 30806, 30807, 30808, 30809,
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03/19/18 ADOPT: 35001, 35002, 35003, 35004,
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35010, 35011, 35012, 35013, 35014,
35015, 35016, 35017, 35018, 35019,
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35055, 35056, 35057, 35058, 35059,
35060, 35061, 35062, 35063, 35064,
35065, 35066, 35067, 35101 AMEND:
1032, 1124.1, 1249, 1336, 1422.1,
1705.1, 2251, 2303.1, 2433, 3022,
3302.1, 3502.1, 4106, 4703, 4903, 5200,
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5222.6, 5223, 5224, 5225, 5226, 5227,
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5233, 5234, 5234.5, 5235, 5236, 5237,
5238, 5240, 5241, 5242, 5244, 5245,
5246, 5247, 5248, 5249, 5249.4, 5249.6,
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05/29/18 ADOPT: 1314, 1353 AMEND: 1302, 1304, 1306, 1308, 1344, 2505
03/01/18 ADOPT: 1685 AMEND: 1680, 1681, 1682, 1683, 1684
01/30/18 ADOPT: 4.5, 8.3, 9.5 AMEND: 1.3, 1.4, 1.7, 1.9, 1.13, 1.14, 1.17, 3.1, 3.3, 4.6 (renumbered from 4.5), 6.3, 7.2, 7.3, 7.6, 8.1, 8.2 (renumbered from 8.3), 8.4, Article 9 (title), 9.4, 9.6 (renumbered from 9.5), 12.1, 13.7, 13.8, 13.11, 13.12, 13.13, 13.14, 14.1, 14.2, 14.5, 14.6, 15.1, 15.3, 16.1, 16.2, 17.1 REPEAL: 8.2, 8.6, 9.6, 9.7
01/25/18 AMEND: 1602, 1605.3, 1606

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05/15/18 AMEND: 1575
01/04/18 ADOPT: 1478.1, 1478.2 AMEND: 1476

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05/09/18 AMEND: 97212, 97240, 97241, 97246, 97249
04/26/18 ADOPT: 69511.2 AMEND: 69511
04/12/18 AMEND: 7000

04/10/18 AMEND: 20000
03/01/18 AMEND: 2706-5, 2706-7
02/08/18 AMEND: 97232
01/24/18 AMEND: 97177.10, 97177.67, 97177.70
01/11/18 ADOPT: 97268 AMEND: 97215, 97218, 97219, 97253, 97254, 97255

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04/11/18 AMEND: 101215.1, 101216.1, 101416.2
03/13/18 ADOPT: 85100, 85101, 85118, 85120, 85122, 85140, 85142, 85164, 85165, 85168.1, 85168.2, 85168.4, 85170, 85187, 85190

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05/24/18 AMEND: 3946, 3949.13, 3949.14
05/03/18 ADOPT: 2910.1 REPEAL: 2910.1
04/19/18 ADOPT: 3949.14
04/16/18 ADOPT: 335, 335.2, 335.4, 335.6, 335.8, 335.10, 335.12, 335.14, 335.16, 335.18, 335.20
03/29/18 AMEND: 595
03/26/18 AMEND: 315, 316
03/08/18 ADOPT: 3909.6
02/22/18 AMEND: 700.1 (renumbered to 638.1), 700.2 (renumbered to 638.2), 700.3 (renumbered to 638.3), 700.4 (renumbered to 638.4), 700.5 (renumbered to 638.5), 700.6 (renumbered to 638.6)
01/24/18 ADOPT: 700.1, 700.2, 700.3, 700.4, 700.5, 700.6

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06/04/18 ADOPT: 6932 REPEAL: 6932
01/18/18 AMEND: 10001

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05/09/18 AMEND: 25705
04/06/18 AMEND: 25705
02/05/18 AMEND: 25705
02/01/18 AMEND: 27000
01/29/18 AMEND: 27001

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01/17/18 AMEND: 47-260
01/17/18 AMEND: 46-430