

RESPONSE TO THE GOVERNOR'S 2020-2021 FISCAL YEAR BUDGET PROPOSAL

Tax Simplification, Tax Relief, & Regulatory Overhaul

APRIL 17, 2020



CBASC

GF GOOD FARMERS
GN GREAT NEIGHBORS

NORTH COUNTY FARMERS GUILD

Dear Governor Newsom,

As leaders in the cannabis industry, we support in concept the proposals outlined in your January budget proposal to: 1) simplify the manner in which cannabis taxes are collected; and 2) overhaul the existing regulatory structure governing commercial cannabis businesses. We believe these objectives are critical to addressing the many burdens facing the legal cannabis industry and look forward to working closely with you and your administration to ensure that these reforms are accomplished in a fashion that reduces barriers to entry, eliminates the duplicative and bifurcated aspects of the licensing structure, and reduces the costs associated with license fees and ongoing compliance.

The first three years of California's legal commercial cannabis program has faced significant challenges. Commercial cannabis businesses have struggled with a complex and bifurcated regulatory structure, the ongoing expensive nature of compliance, and high rates of taxation on cultivated plant material and retail products. Further complicating matters, the legal market has experienced limited growth, especially in the retail sector, while the illicit market has continued to expand, and boasts reduced prices on untested unregulated cannabis goods.

To address these issues in a manner that ensures not only the stabilization of the legal market but also facilitates responsible growth we respectfully recommend that a combination of tax reform, tax relief, and regulatory simplification be prioritized in the 2020-2021 fiscal year. These recommendations are summarized below and addressed in further detail in this document.

Tax Simplification/Relief. While we greatly appreciate your efforts to simplify tax collection, we cannot support moving the collection of cultivation tax to the first distributor for the following reasons. Moving the cultivation tax collection point to the first distributor would only exacerbate the economic distress currently impacting the legal supply chain. The current proposal would force cultivators and distributors to pay and remit cultivation tax on plant material that has not received a Certificate of Analysis (COA), and a quality assurance review, which are the final steps necessary to determine whether the cannabis good is suitable for human consumption and may be sold at a legal retail location. The tax remittance on plant material would occur weeks, if not months, before the plant material is deemed safe for retail sale, and provides no mechanism for the return of taxes collected on plant material that fails COA and/or the quality assurance review.

Instead, we respectfully request the immediate and permanent elimination of the cultivation tax, a reduction of the excise tax, and a temporary freeze on the average mark-up rate¹ at 80 percent, should the excise tax continue to be collected by distributors.

Regulatory Reform. Regarding your proposal to consolidate the three licensing entities, we have significant concerns about moving CalCannabis from the California Department of Food and Agriculture (CDFA) to the newly proposed Department of Cannabis Control (DCC). Traditional cannabis farmers have fought hard to be regulated in a manner that is analogous to

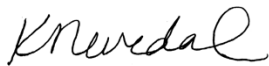
¹ Refers to the average mark-up rate determined by the California Department of Tax and Fee Administration (CDTFA).

other crops produced for human consumption. While California's statute and regulations do not currently establish such a model, we feel strongly that cannabis regulations should be streamlined in a manner that moves in this direction. We believe that an analogous regulatory framework would provide the most cost saving benefits to the legal cannabis supply chain, the licensing authorities, the patient, and the consumer, while providing the best opportunity to ensure that resource and environmental concerns are adequately addressed.

The subsequent information accompanying this letter outlines a strategic pathway to achieving the goals set forth in your January budget proposal, while providing immediate relief for the cannabis industry to become the economic driver envisioned in Proposition 64.

We urge you to consider our recommendations and look forward to working with you and your administration throughout the year to ensure California's cannabis industry can continue providing well-paying stable jobs and revenue that supports the economic recovery and wellbeing of California.

Sincerely,



Kristin Nevedal / Chair

International Cannabis Farmers Association
(ICFA)



Aaron Johnson / President

Coastal Growers Association (CGA)



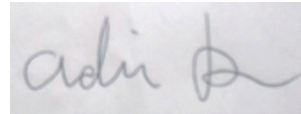
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On behalf of the Sonoma County Growers Alliance Board

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BACKGROUND

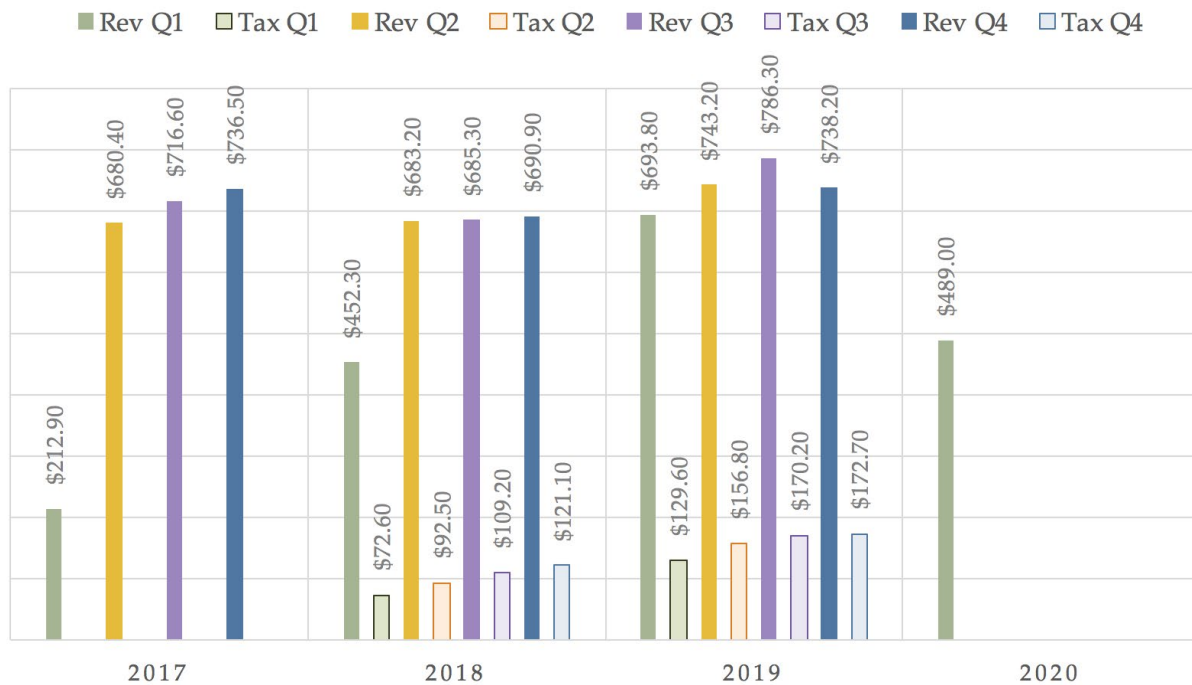
The first three years of legalization have been challenging for all aspects of the legal supply chain. In March 2017, BDS Analytics began reporting on legal cannabis sales². In the first year of legalization, California’s legal cannabis industry reported over \$2.3 billion in sales, averaging approximately \$234.6 million a month in sales. In December 2017, the three licensing authorities adopted emergency regulations establishing the application and licensing requirements for temporary and annual licensing.

On January 1, 2018, the licensing authorities began issuing temporary and annual licenses. As legal cannabis businesses became licensed they were prohibited from conducting business with unlicensed cannabis businesses. At the same time, the weight-based cultivation tax and the 15 percent excise tax on cannabis goods were implemented, per Proposition 64. As California’s legal cannabis industry transitioned into the new regulations, struggled through licensing, and was assessed with state cultivation and excise taxes for the first time, the industry reported a 62 percent decline in first quarter sales.

It wasn’t until June 2018 that licensed cannabis businesses reported monthly sales in the range of the reported monthly average of 2017. The losses in the first two quarters of 2018 were severe, and even though the legal market rebounded in the second quarter, it remained flat

² Reported sales revenue numbers are taken from BDS Analytics monthly Category 2 totals for California.

through the end of the year, resulting in a 12 percent drop in average monthly sales in 2018.



California Sales Revenue & Tax Revenue Chart: Sales revenue (Rev) cited from BDS Analytics, tax revenue (Tax) represents combined sales tax, cultivation tax, and excise tax as reported by CDTFA.

On December 31, 2018, the state’s temporary commercial cannabis program sunsetted, ending the licensing authorities’ ability to issue or renew temporary licenses. The first quarter of 2019 experienced challenges as licensed cannabis businesses struggled to transition from temporary to annual licenses, resulting in a lapse in licensure for some legal cannabis businesses, and permanent closure for others. For the first time since licensing began in 2018, reported sales increased steadily over the first three quarters and closed the year with a 15 percent increase in annual sales revenue.

However, the market was also volatile as fourth quarter sales, which in previous years tended to be stable and even saw increased revenue due to the holiday shopping season, took an unexpected turn and dropped by 6.5 percent. According to Leafly’s fourth annual Jobs Report, 2019 marked the first-time states posted cannabis job losses, noting that after the sunset of California’s collective and cooperative medical allowance, cannabis sales contracted by 18 percent, resulting in the loss of about 8,000 legal cannabis jobs in California.³

The first quarter of 2020 could mark additional losses for the industry⁴, as legal cannabis businesses, like other essential businesses, struggled to manage the economic challenges associated with the COVID-19 pandemic. In January and February, the legal cannabis industry reported approximately \$489 million in sales. As local jurisdictions and the state adopted

³ Leafly Jobs Report 2020, page 4.

⁴ At the time of drafting this report March numbers were not available to the authors. However, March revenue would need to surpass the \$349 million for first quarter losses to be avoided.

shelter-in-place orders in mid-March, the cannabis industry anecdotally reported a significant, yet short-lived spike in sales. And while cannabis businesses have been deemed ‘essential businesses’ by the state, which we greatly appreciate, local jurisdictions have responded to COVID-related public health concerns in a variety of ways.

Many local jurisdictions initially allowed licensed retail locations, serving both medicinal and adult-use cannabis, to remain open so long as social distancing rules were enforced. As the weeks have gone by, and public health concerns have grown, many localities have further restricted licensed retail locations to only offering curbside pickup, and or delivery services. Some local jurisdictions have since forced the closure of licensed adult-use retail locations, limiting legal cannabis sales to licensed medicinal retailers only. As such, the initial reporting from legal operators suggests that the spike in sales experienced in mid-March have since plummeted as patients and consumers stay home and operational challenges have increased for the legal supply chain.

In early April, Acreage Holdings, one of the largest legal cannabis companies in the US, announced business cutbacks due to the pandemic, including the temporary firing of 122 employees, temporarily halting business activities including wholesale operations in Iowa, dispensaries in Maryland and North Dakota, and Form Factory (manufacturing operations) in Oregon, Washington, and California⁵. Acreage Holdings also announced the abolishing of a securities agreement connected to the planned purchase of a Rhode Island dispensary.

We have serious concerns that the broader economic impacts related to the COVID-19 pandemic, layered on top of the ongoing issues that have continually challenged the legal industry, could result in significant business failures and tremendous job loss in the industry. Due to the ongoing legal conflicts between federal and state law, legal cannabis businesses are not currently able to qualify for federal aid, and in many cases, may not qualify for state aid programs.

To stave off widespread failure of California’s legal cannabis businesses, we urge the Administration to consider the following recommendations for tax simplification, tax relief, and regulatory overhaul. We believe the following recommendations will provide not only much needed immediate relief, but more importantly provide long term economic stability to the legal cannabis industry. Reducing the cost of cannabis goods in the legal market means reducing the cost of operating in the legal supply chain. We feel strongly that the time is now to address these issues and that these actions are critical for the legal industry to meet the stated goal of undercutting the illicit market and becoming the economic driver envisioned in Proposition 64⁶.

⁵ <https://www.benzinga.com/markets/cannabis/20/04/15739709/acreage-holdings-furloughs-employees-closes-facilities-axes-m-a-deal-due-to-covid-19-crisis>

⁶ How High? Adjusting California’s Cannabis Taxes, Legislative Analyst Office, page 13.

RECOMMENDATIONS FOR TAX SIMPLIFICATION & TAX RELIEF

We support provisions of the Governor's tax simplification proposal, but also have concerns. We support moving the collection of excise tax to the retailer, but are opposed to moving the collection of the cultivation tax to the first point of distribution. While we understand the simplification benefits of moving the collection of cultivation taxes to the first distributor, we have serious concerns about assessing taxes on plant material that may not be in final form, and has not received a Certificate of Analysis (COA).

There are significant numbers of licensed cultivators who cannot process their harvest into final form cannabis products. Whether this is due to local land use restrictions, or the costs associated with building commercial structures, it is important to note that large quantities, if not most, of the legal cannabis grown in California is transferred by a distributor from the licensed cultivator to the product maker weeks, if not months, before becoming a final form product. Only final form products are eligible for COA testing. Once the final form product passes the COA, it is then subject to a quality assurance review before it can be sold to a licensed retailer, easily resulting in the passing of several more months before the product is sold. If the final form product fails the COA it must be remediated or destroyed.

Without a clearly defined mechanism for the reimbursement of cultivation tax on cannabis goods that for some reason are destroyed or otherwise unable to be sold, we cannot support the collection of the cultivation tax at the first distributor. We are concerned that requiring the cultivator to pay forward these taxes would exacerbate the economic distress currently impacting the legal supply chain.

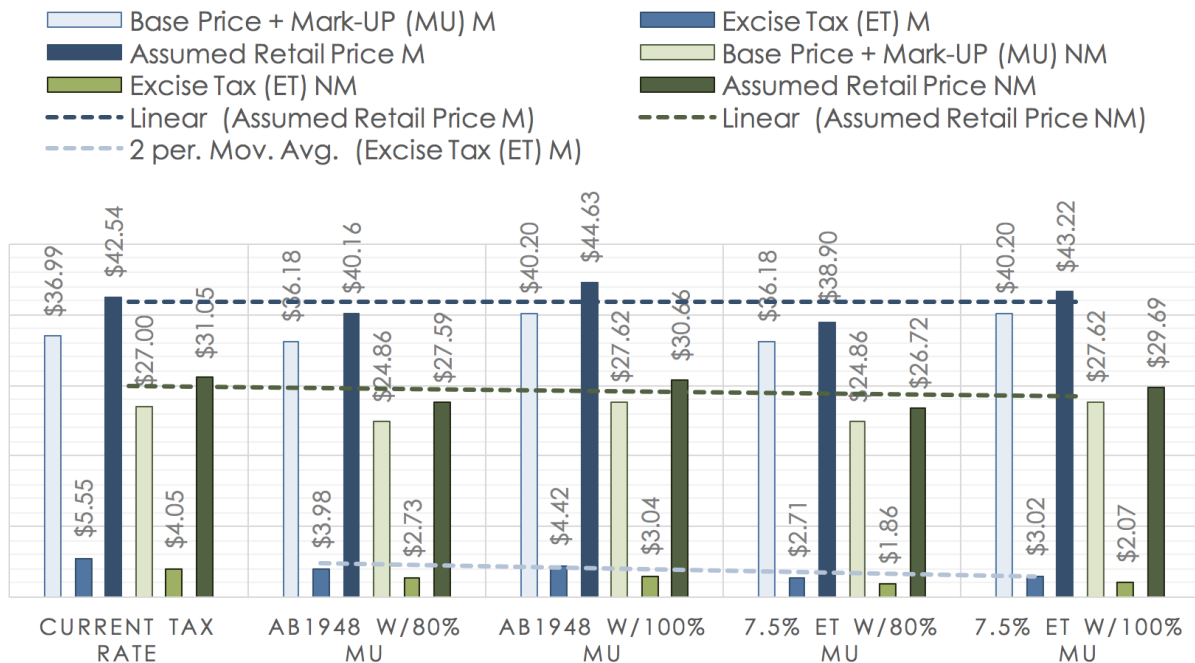
We continue to support Assemblyman Rob Bonta's tax reform efforts and greatly appreciate the assemblyman's leadership on this issue. Tax relief is more important than ever before and could offer the additional opportunity of protecting public health and safety if the relief is significant enough to ensure a reduction in the retail price of legal cannabis goods. Faced with the current global economic and public health crisis, we have concerns that consumers and patients alike will be impacted by the economic downturn and that high prices in the legal cannabis market will continue to incentivize the purchasing of illicit cannabis goods.

Recent cultivation and excise tax modeling, developed by the International Cannabis Farmers Association (ICFA), suggests that the cultivation tax impacts the retail price of nonmanufactured cannabis goods more significantly than the retail price of manufactured goods. For example, the cultivation tax on an orally-consumed cannabis good, such as an edible, is about \$0.448, whereas the cultivation tax on an 1/8 ounce of flowers, a nonmanufactured cannabis good, is \$1.19.

Lowering the excise tax to 11 percent, in addition to eliminating the cultivation tax, could create a slight price reduction in the legal market as the cost of an orally-consumed cannabis good could realize \$2.37 in savings, while the nonmanufactured 1/8 ounce of cannabis flower could realize \$3.46 in savings. However, these savings are so lean that an increase in the mark-up rate from 80 percent to 100 percent would reduce the cost savings on the 1/8 ounce of cannabis flower to \$0.39, and increase the retail price of the orally-consumed cannabis good by approximately \$2.09.

While this price increase might not seem significant, we would argue that based on the current economic challenges facing all of us, patients and consumers may very well be discouraged from purchasing legal cannabis goods if there are any price increases on these products. With that said, we urge the Governor to consider not only permanently eliminating the cultivation tax, but also lowering the excise tax to 7.5 percent immediately for no less than 24 months. As the industry stabilizes, hopefully over the course of three years, the excise tax could be increased to 11 percent.

Eliminating the cultivation and lowering the excise tax to 7.5 percent, with an assumed 80 percent mark-up, would reduce the retail price on an 1/8 ounce of flower by approximately \$4.33, and reduce the retail price on an orally-consumed cannabis good by approximately \$3.64. However, it is important to note that even in this instance, an increase in the mark-up rate from 80 percent to 100 percent would eliminate much of the savings on the 1/8 ounce of flowers, and result in an increase of \$0.68 in the retail price of the orally-consumed concentrate.



Implications of Taxation on the Cost of Retail Cannabis Goods, Price Comparison Chart: The Manufactured (M) cannabis good referenced in this chart is a low THC edible. The NonManufactured (NM) cannabis good referenced in this chart is 1/8 ounce of flower. The base price plus mark-up includes the cost of COA testing, and distribution. The Manufactured (M) cannabis good is shown in blue and the NonManufactured cannabis good is shown in green.

Recommendation: For these reasons we urge the Governor to permanently eliminate the cultivation tax, immediately reduce the excise tax to 7.5 percent to be increased to 11 percent over three years, and move collection of the excise tax to the retailer. If for some reason, collection and remittance of the excise tax remains the responsibility of the distributor, we propose a temporary freeze of the CDTFA adjusted mark-up rate at 80 percent, for no less than 24 months. The tax calculator used in this section’s modeling can be found [HERE](#).

1. Delay the promulgation of new cannabis specific programs.

Both the O-Cal comparable to organics program and Appellation of Origin program are slated for implementation on January 1, 2021. On February 20, 2020, the California Department of Food and Agriculture, released proposed regulations for the cannabis appellations of origin program, starting a 45-day public comment period. Additionally, the O-Cal comparable to organics program draft regulations should be released in the next few weeks.

However, due to the current COVID pandemic, the public comment period for the draft appellation of origin regulations has faced unprecedented challenges. The draft appellation regulations propose a structure that is advantageous to applicants who file first, which could encourage a 'rush to file' once the program implements.

Faced with ongoing economic challenges, the current unforeseen economic downturn, and a lack of access to capital, we are concerned that California's legacy farmers will not be able to afford the estimated \$68,920⁷ necessary to file a petition as soon as January 1, 2021. These combined factors could create an unfair advantage for well-capitalized businesses to file first, setting the parameters for appellation regions without input from, or the consensus of, the state's legacy farmers.

Recommendation: We urge you to consider postponing the current rule-making process and waiting until January 1, 2022 to implement the O-Cal comparable to organics program and Appellation of Origin. This recommendation will preserve the integrity of these important programs, ensure adequate public engagement, and provide an opportunity to redirect the work-load placed on the California Department of Food and Agriculture and the California Department of Public Health.

2. Extend the provisional licensing program timelines.

Compliance with the California Environmental Quality Act (CEQA), is one of the largest hurdles facing the legal cannabis industry. The complex nature of CEQA is a barrier to entry for commercial cannabis applicants and local jurisdictions wishing to permit legal cannabis businesses. Both state and local jurisdictions are required to develop a Programmatic Environmental Impact Report (PEIR) to proceed with providing a pathway to the licensing and permitting of new cannabis businesses.

In addition to meeting CEQA compliance, applicants seeking a CalCannabis license must also comply with environmental programs set forth by the California Department of Fish and Wildlife (DFW), and the State Water Resources Control Board (SWRCB). These programs are also required for the applicant to achieve CEQA compliance. The timelines and expense associated with achieving compliance with these programs is significant.

Due to the current COVID pandemic, which has temporarily-suspended agency field inspections, postponed public meetings scheduled to gather comment on local draft PEIRs, and

⁷ [Cannabis Appellations Program Regulations](#), Economic and Fiscal Impact Analysis, Table 9. CAO Regulation Costs per Appellation, page 24.

threatens to shorten the DFW and SWRCB approved environmental ‘work season’, we have significant concerns that the provisional licensing program will sunset before local jurisdictions, agencies, and applicants can achieve program compliance.

Recommendation: We respectfully request that the timelines set forth in statute, allowing local jurisdictions the ability to move forward with discretionary permits as compliance with these programs is achieved, be extended for an additional two years. We also suggest that the Provisional licensing program be extended by two years, so that it does not sunset until January 1, 2024. These changes would help to provide local jurisdictions the time needed to finish in-process PEIR’s and state agencies additional time to conduct field inspections, while ensuring the state does not experience a back-log or loss in licensing as experienced in the first quarter of 2019.

a. Proposed Changes to Business and Professions Code Section 26050.2 & 26055

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:

(i) This section shall remain in effect only until January 1, ~~2022~~, 2024, and as of that date is repealed.

26055 (a) Licensing authorities may issue state licenses only to qualified applicants.

(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~~ 2023.

3. Eliminate duplicative licensing requirements.

Applicants seeking a cultivation license are required to obtain and submit to CalCannabis a Lake and Streambed Alteration Agreement (LSAA) or notice of exemption from the Department of Fish and Wildlife (DFW), as well as a permit or notice of exemption from the State Water Resources Control Board (SWRCB) to be eligible for a cultivation license.

The process associated with obtaining a LSAA requires extensive mapping and agency inspection of all roads, culverts, and waterways on properties where cultivation will be occurring. All water sources, water storage containers, water distribution systems, and reason for water use, must be identified, mapped and inspected by the SWRCB for the applicant to obtain a permit under the SWRCB program.

These permits, or exemptions from permits, must be submitted to CalCannabis during the license application process. Additionally, all application materials produced to achieve compliance with the DFW and SWRCB program are required by CalCannabis regulations to be kept on the licensed premises and made available for inspection upon request. However, due to statutory requirements, applicants are also required to remap these features on the premises

and property diagrams required by CalCannabis. These mapping requirements are not only expensive and duplicative for the applicant, but are also costly for CalCannabis as the licensing review team must include a scientific review division that assesses these mapping requirements.

Recommendation: To simplify the application and renewal process, and to reduce the expense associated with licensing, both for the applicant and the licensing authority, we suggest that statutory changes be made allowing CalCannabis to eliminate duplicative environmental requirements that are not directly related to the commercial cannabis operation.

a. Proposed Amendments to Business and Professions Code Section 26051.5

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

(c) The applicant shall also provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas, ~~if any,~~ all roads providing access to cultivation related facilities, water crossings, and all points of diversion and water storage used in associated with , ~~and all other facilities and~~ infrastructure related to the cultivation.

b. Proposed Amendments to CDFA Regulations, Section 8105

§ 8105. Property Diagram.

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

~~(c) All roads and water crossings on the property;~~

(c) All roads leading to locations where cultivation activities will occur;

(d) All water sources associated with cultivation related activities shall be identified and ~~identified and~~ labeled for beneficial use type, including but not limited to, irrigation, domestic, fire protection, power, fish and wildlife preservation and enhancement, and/or recreation;

RECOMMENDATIONS FOR REGULATORY OVERHAUL

We strongly believe that the following recommendations should be prioritized to reduce barriers to entry, the costs associated licensing, and the costs of ongoing compliance.

1. Eliminate the bifurcated nature of commercial cannabis licensing.

The state's commercial cannabis licensing program prohibits a licensee from conducting activities that are clearly defined under a different license type, establishing a bifurcated licensing system. This has forced applicants to obtain multiple licenses, including establishing a separate premises for each license, to engage in commercial cannabis activities.

While this issue has impacted multiple sectors of the supply chain, it has exponentially challenged cultivators of all license types. For instance, outdoor cultivation licenses are prohibited from conducting light deprivation activities, while mixed-light cultivators are prohibited from cultivating cannabis without the use of light deprivation and/or supplemental lighting in the mature flower area.

Light deprivation is a well-established farming technique used by farmers to force flower crops, which in turn allows the farmer the ability to schedule when the crop will be harvested. Farmers, using light deprivation techniques, manually shorten the natural daylight hours by covering the crop in a material that does not allow natural sunlight to reach the crop. Light deprivation triggers the crop to flower by mimicking the shortening of natural daylight hours, which is the mechanism that tells *Cannabis* that the growing season is coming to an end and it's time to produce flowers.

The need for multiple licenses to legally operate one farm, or post-harvest facility, has vastly increased the costs of operating these facilities as a licensed cannabis business.

Recommendation: We respectfully request that the Administration take the following immediate regulatory actions.

- a. Permit licensed manufacturing facilities to process cannabis, including drying, curing, and trimming activities, without also obtaining a processing license.
- b. Permit processing to be a recognized activity that establishes eligibility for a microbusiness.
- c. Eliminate the prohibition on light deprivation for outdoor license types, and/or remove the prohibition on open-air full-term crop production for mixed-light tier 1 license holders.
- d. Allow cultivation license holders, with more than one cultivation license, the ability to share propagation and processing areas without dividing the propagation and processing areas into separate premises, or requiring the purchase of additional licenses.

The requested amendments to the outdoor and mixed-light tier 1 definitions are critically important to reducing barriers to entry and lowering the cost of cultivation licenses. The requested amendments to these definitions could be accomplished almost immediately via emergency rule promulgation providing immediate relief to cultivators of all license types.

The same can be said for allowing cultivation license holders the ability to share propagation and processing areas amongst the licenses held, without needing to acquire additional licensing or divide the shared propagation and processing area. It is important to note that in 2023, should Type 5 licenses become available, these large farms will automatically be able to use one propagation and one processing area for their entire square footage, essentially eliminating the need for these large farms to also hold a nursery license, a processing license, and a transport license to move plant material around the farm.

If the shared propagation and shared processing area issues are not remedied, these issues will indefinitely burden small producers throughout the state, even as larger producers see these barriers removed. We urge the Administration to act on this issue NOW, in support of small cannabis farmers throughout California.

a. Proposed Amendments to CDPH Regulations, Section 26001.

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

(ah) “Manufacturer” means a licensee that conducts the processing, production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

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

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

b. Proposed Amendments to BCC Regulations, Section 26070.

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

c. Proposed Amendments to CDFA Regulations, Section 8000.

(t) “Mixed-light cultivation” means the cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using a combination of natural light and one of the artificial lighting models listed below:

~~(1) — Natural light and light deprivation and one of the artificial lighting models listed below:~~

- ~~(A) “Mixed light Tier 1” without the use of artificial light or the use of artificial light at a rate above zero, but no more than six watts per square foot;~~
- ~~(B) “Mixed light Tier 2” the use of artificial light at a rate above six and below or equal to twenty five watts per square foot; or~~
- ~~(2) ——— Natural light and one of the artificial lighting models listed below:~~
- ~~(A) (1) “Mixed-light Tier 1” the use of artificial light at a rate above zero, but no more than six watts per square foot;~~
- ~~(B) (2) “Mixed-light Tier 2” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.~~
- (x) “Outdoor cultivation” means the cultivation of mature cannabis without the use of artificial lighting ~~or light deprivation~~ in the canopy area at any point in time. Artificial lighting is permissible only to maintain immature plants outside the canopy area.

2. Restructure the CalCannabis cultivation license pricing.

CalCannabis cultivation licenses are tiered in cost, based on the assumed production rate associated with each license type. License types are differentiated by the method of cultivation used to flower the mature plant canopy, the square footage of mature plant canopy area, and the number of harvests each method might achieve.

The CalCannabis price structure assumes that each license holder will harvest the maximum square footage allowed under the license type, and will achieve the number of harvests assumed for each license type.

However, many cultivators are limited by local land use restrictions and CEQA compliance from expanding their cultivation sites, eliminating their ability to cultivate the maximum square footage allowed under their state license. Furthermore, many cultivators report an inability to achieve the number of harvests assumed for their license type.

In February 2020, the International Cannabis Farmers Association (ICFA) distributed a survey to all outdoor and mixed-light tier 1 active licensees. ICFA also distributed the survey via social media platforms, and in emails to the ICFA list. Upon closing the survey at the end of March 2020, one hundred twenty-two (122) cultivators had completed the survey.

Of those respondents, 33 percent reported that they were restricted from cultivating the full square footage of at least one state cultivation license. Of the 52 mixed-light tier 1 license holders who completed the survey, 58 percent reported only achieving 2 harvests per licensed year. That 58 percent of farmers, who only achieved two harvests, paid an average 33 percent more per square foot of mature plant canopy than their peers of the same license type who achieved the full 3 harvests assumed by CalCannabis.

The current pricing structure significantly increases the cost of licensing for cultivators who cannot legally cultivate the full square footage offered by state licensure, and/or cannot achieve the number of harvests assumed by CalCannabis. At the same time, this structure provides tremendous cost savings to cultivators who can exceed the number of assumed harvests associated with their license type.

Recommendation: We respectfully request that the Administration reassess and restructure the pricing system for cultivation licenses and create a system that ensures cultivators pay for what they cultivate, instead of what they might cultivate. This would result in a tremendous cost savings to the agricultural sector of the supply chain and establish a tiered pricing system that could equitably address the on-ramping of Type 5 licenses in 2023, should they be determined necessary.

a. Proposed Amendment to Cultivation License Price Structure

We support changing the cultivation license price structure to a formula that ensures cultivators only pay for the square footage of mature plant canopy grown and the number of harvests achieved. Such a formula could look like this: square feet of mature plant canopy x per square foot license fee x number of harvests achieved = annual or renewal fee. Here's an example: Fran is locally permitted to cultivate 8,500 square feet of cannabis, conducts light deprivation activities, and uses supplemental lights in the mature plant canopy area.

i. Cost of a small-mixed light tier 1 license under the current license structure - \$11,800

Fran applies for and acquires a small mixed-light tier 1 license from CalCannabis. The cultivation license allows her to cultivate a full 10,000 square feet, even though the local jurisdiction only allows her to cultivate 8,500 square feet. If Fran could cultivate the full 10,000 square feet and achieve 3 harvests a year this license would cost approximately \$0.39 per square foot. ($\$11,800 / 10,000 \text{ SF} / 3 = \0.39 per square foot).

ii. Cost of a small-mixed light tier 1 license at a rate of \$0.39 per square foot with 3 harvests - \$9,945

Fran cultivates 8,500 square feet of mature plant canopy and achieves 3 harvests annually. If Fran only pays for the square footage of mature plant canopy she's permitted for she would save 16 percent on annual licensing. ($8,500 \text{ SF} \times \$0.39 \times 3 \text{ harvests} = \$9,945.00$)

iii. Cost of a small-mixed light tier 1 license at a rate of \$0.39 per square foot with 2 harvests - \$6,630

Fran cultivates 8,500 square feet of mature plant canopy and achieves 2 harvests annually. If Fran only pays for the square footage of mature plant canopy she's permitted for, and only pays for the 2 harvests, she would save 44 percent on annual licensing. ($8,500 \text{ SF} \times \$0.39 \times 2 \text{ harvests} = \$6,630$)

iv. Cost of a small-mixed light tier 1 license at a rate of \$0.39 per square foot with 4 harvests - \$13,260

Fran cultivates 8,500 square feet of mature plant canopy and experiences a year of amazing weather, miraculously achieving 4 harvests. Following the same formula as above, Fran will pay approximately 12 percent more for license than the current rate. ($8,500 \text{ SF} \times \$0.39 \times 4 \text{ harvests} = \$13,260$)

3. Establish one technology platform to be used for all types of commercial cannabis applications, license renewals, local permitting, and ongoing compliance programs associated with commercial cannabis.

Implementing one central platform for all commercial cannabis activities could also provide a significant time and cost saving opportunity to local jurisdictions, local and state agencies, law enforcement, and the public when attempting to discern between regulated and unregulated cannabis businesses and cannabis goods.

Recommendation: We recommend that one online application, permit, licensing, and compliance technology platform be immediately developed and implemented. We suggest that the permitting, licensing, and compliance programs hosted by this technology platform include, but should not be limited to the following entities:

- a. California Department of Food and Agriculture (CDFA),
- b. California Department of Public Health (CDPH),
- c. Bureau of Cannabis Control (BCC),
- d. California Department of Fish and Wildlife (CDFW),
- e. State Water Resource Control Board (SWRCB),
- f. California Department of Tax and Fee Administration (CDTFA), and
- g. local jurisdictions to support standing-up and operating local permitting programs.

4. Eliminate the duplicative nature of application materials required by the three licensing authorities.

The creation and implementation of one technology platform provides the perfect opportunity to streamline the following application and licensing materials that are required by the three licensing authorities in slightly different variations.

Recommendation: Streamline all items required by the three licensing authorities, including but not limited to the following:

- a. Owner declaration form,
- b. Final financial interest form,
- c. Owner consent form,
- d. Modification form and filing process,
- e. Live scan requirement and form,
- f. Lease agreement requirements and review process, and
- g. Consistent renewal process and late processing fees.