



July 22, 2022

DCC Legal Affairs Division
Department of Cannabis Control
2920 Kilgore Road
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Submitted via Electronic Mail: publiccomment@cannabis.ca.gov

RE: Comments Regarding Modifications to Proposed Consolidated Cannabis Regulation Rulemaking

To Whom it May Concern:

The California Cannabis Industry Association (“CCIA”) is the state’s most influential cannabis trade organization, comprising over 400 operators and ancillary business members. CCIA respectfully submits these public comments to the Department of Cannabis Control (“DCC” or the “Department”) regarding the Modification to Proposed Text of Consolidated Cannabis Regulations (“Consolidated Regulations”) released on July 6, 2022.

Before we address our specific recommendations, we want to take a moment to express our desire to be more productively engaged in the policymaking process. Historically, stakeholders have struggled to establish a consistent and effective means of participating in the rulemaking process, particularly early on when new regulations and amendments are initially conceptualized. We understand that this challenge was likely rooted in the fact rulemaking and regulations were previously propounded on an emergency basis.

Now that the DCC has shifted to a normalized rulemaking process -- a shift we applaud -- we see this as an opportunity to strengthen and expand communication. While the public comment process is meaningful, we believe that we will have a more fruitful collaboration if the Department engages our membership at the inception of the rulemaking process. This could take a number of forms, including a quarterly roundtable where, together, we can discuss broader policy objectives and specific regulatory changes for the upcoming year, as well as progress in meeting those goals.

Comments on the Consolidated Regulations

First and foremost, we want to express our appreciation for your decision to implement many of our prior recommendations. We see many sensible improvements in this version of

the text which will directly contribute to the advancement and efficiency of the industry. This includes amendments to:

- §15000.3 Premises Requirements
- §15000.7 Storage of Inventory
- §15027(d) and (f) Physical Modification of Premises or Operations
- §15415 Delivery Employees
- §15706 Chain of Custody
- §15306 Timeline for Destruction
- §16202 General Cultivation Requirements
- §17305 Failed Harvest Batches

We also want to acknowledge the Department’s use of gender neutral language, which underscores a commitment to diversity and inclusion.

While many of the proposed changes are welcome, we must express our concerns with some of the recent amendments as summarized below:

§17401 Release to Distributor as Finished Product

The language pertaining to release of manufactured products states that cannabis products must be labeled and packaged in their final form before being transferred to the distributor — with the exception of cannabinoid content labels. Typically, this means that each individual unit must be stickered *twice*, even when the manufacturer and distributor are one of the same. Products must be stickered at the manufacturing premises *before* COA testing with the batch-specific UID number, batch number, best-by date, package date, and manufacturing date. Then they must be stickered again at the distribution premises *after COA testing* with lab-verified cannabinoid levels.

***Recommendation:** We suggest that §17401 be amended to allow entities that hold both manufacturing and distribution licenses to package, re-package, label, or re-label their own manufactured cannabis products at their licensed distribution or manufacturing premises. Removing the requirement to double sticker every product will reduce waste and manufacturing costs.*

§15000(h) Definitions, “Cannabis concentrate” AND §15000(tt) Definitions, “Non-manufactured cannabis products”

These two sections incorrectly redefine “kief” as a manufactured product. Kief is naturally occurring; its removal from the plant does not require any form of processing or extraction. Kief consists merely of the loose cannabis trichomes that are collected by sifting plant materials. As such, kief fails to meet the definition for cannabis concentrate, which is defined as “cannabis that has *undergone a process*” (emphasis added).

Recommendation: We suggest that the Department strike “kief” from the definition of “cannabis concentrate” and add it to the definition of “non-manufactured cannabis products.” The proposed changes to the definition of this substance at this late date will result in confusion amongst licensees and consumers, increased costs, and disruptions to the production process.

§15700(rrr) Definitions, “Total THC”

As amended, this section now requires that delta-8 THC be incorporated into the Total THC calculation. CCIA shares the Department’s commitment to fully and accurately disclosing the potency of all euphorigenic cannabinoids. That said, this change will have a significant impact on licensees who may need to change their formulas, master manufacturing protocols, packaging, and labeling.

Recommendation: Given the significant costs associated with this change, we suggest an extended phase-in period to give businesses time to make the necessary changes without incurring unreasonable costs. We specifically propose that the Department allow licensees until December 31, 2022 to enact this change and allow retailers until July 1, 2023 to sell through existing inventory. Alternatively, we suggest that the Department follow the phased-in schedule set forth by OEHHA for Prop 65 revisions.

§15000(ppp) Definitions, “Terpenes”

In this section, “terpenes” has been redefined to include “terpenes, terpenoids, flavonoids, polyphenols, and other naturally occurring phytochemicals and secondary metabolites contributing to the aroma or flavor of cannabis.”

Recommendation: We appreciate this change. However, in the interest of public health, we ask that the Department ensure that this definition **explicitly excludes** synthetic flavorings (such as bubblegum or popcorn) not naturally found in the cannabis plant from inhalable products.

§15303(b) Packaging, Labeling, and Rolling

As amended, this section now requires that pre-rolls be in their “final form” prior to COA testing. This effectively removes the ability for cultivators and distributors to do bulk testing on pre-rolls. This change will significantly increase testing costs on these products (and thus the retail price) without material benefit to the public because the products have already been tested in bulk form.

Recommendation: We suggest that the Department strike the new language and continue to allow pre-rolls to be tested prior to being packaged and labeled.

§16308(c) Canopy Requirements

This section has been amended to permit cultivators to utilize canopy areas to produce seeds for use by that licensee.

Recommendation: We suggest that the Department amend this to allow canopy areas to be used to produce clones, as well. By including clones, the Department can enable cultivators to better protect their intellectual property and breeding programs by allowing them to propagate clones in-house rather than forcing them to rely on third-party nurseries.

15041.7(a)(2) (Trade Sample Limits)

This section continues to apply arbitrary limits on trade samples without regard to the size of the business. While this subsection is unchanged from the previous version, we urge you to revisit that decision. As written, for example, a distributor with a catalog of over three hundred products servicing 500 hundred stores would be subject to the same unit limits as a small manufacturer serving a dozen local dispensaries. Moreover, the complexity of the limits renders them almost impossible to enforce.

Recommendation: We continue to ask that you set trade sample limits as a percentage of each batch, setting a not-to-exceed limit of 5% per batch.

In closing, we value our relationship with the Department and appreciate the effort you have dedicated to developing a functional and adaptive, regulated cannabis market. We look forward to building more robust engagement so that we can continue to provide on-the-ground experience in furtherance of a safe and thriving industry.

Respectfully,



LINDSAY ROBINSON
Executive Director