

DEPARTMENT OF FOOD AND AGRICULTURE
Title 3 of the California Code of Regulations

Notice of Proposed Rulemaking Action
45 – Day Notice

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) intends to adopt Division 8 Cannabis Cultivation, Chapter 1 Medical Cannabis Cultivation Program, sections 8000 to 8708 described below. With this rulemaking, the Department will propose permanent regulations, after the consideration of all comments, objections, and recommendations.

The Department is issuing this notice to meet requirements set forth in Government Code section 11346.4.

PUBLIC COMMENT HEARINGS

Any interested person, or their authorized representative, may present, either orally or in writing, comments regarding the proposed action at one of the public hearings, to be held at the following times and locations:

Tuesday, May 16, 2017 1 PM to 3 PM

Delhi Center, Ballroom
505 E Central Ave Santa Ana, CA

Thursday, May 18, 2017 1 PM to 3 PM

Visalia Convention Center
303 E Acequia Ave Visalia, CA

Thursday, May 25, 2017 1 PM to 3 PM

Ukiah Convention Center
200 S School St Ukiah, CA

Wednesday, June 14, 2017 1 PM to 3 PM

California Department of Food & Agriculture Auditorium
1220 N St Sacramento, CA
Webinar will be available

Registration information will be posted at: <http://calcannabis.cdfa.ca.gov/>

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, como 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 minimo de diez (10) dias 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 statements, arguments, or comments relevant to the proposed regulatory action to the Department. Comments may be submitted by mail, or email to:

Rachelle Kennedy
Department of Food and Agriculture
CalCannabis Cultivation Licensing
1220 N Street
Sacramento, CA 95814
CalCannabisRegs@cdfa.ca.gov
916.263.0801

The written comment period closes at 5:00 pm on June 12, 2017. The Department will consider only written statements, arguments, or comments received at the address designated above and by the date and time specified.

AUTHORITY AND REFERENCE

The Department is proposing changes to Title 3 of the California Code of Regulations as follows: adoption of sections 8000 – 8608.

Business and Professions Code (BPC) section 19300.5, 19302, 19302.1, 19304, 19320, 19321, 19322, 19323, 19324, 19332, 19332.2, 19335, and 19350 and Health and Safety Code (HSC) 11362.768 and 11362.777 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 19300.5, 19300.7, 19302.1, 19303, 19304, 19307, 19311, 19312, 19314, 19320 through 19329, 19332, 19332.2, 19334, 19335, 19345, 19347, 19350, 19355, and 19360 of the Business and Professions Code (BPC), section 2105 of the Corporation Code, section 760 of the Family Code, section 1602 of the Fish and Game Code, sections 5006, 5721-5723, 12753, 12754.5, 55530, and 56193 of the Food and Agricultural Code, section 7050.35 of the Health and Safety Code, section 1140 of the Labor Code, sections 410141 and 40191 of the Public Resources Code, and sections 5101, 13149, and 13751 of the Water Code.

INFORMATIVE DIGEST / POLICY STATEMENT

Existing Law:

Proposition 215 (1996), passed by California voters, also known as the Compassionate Use Act of 1996 prohibits prosecution for growing or using cannabis of Californians who have an oral or written recommendation from their doctors (patients), and these patients' caregivers.

Senate Bill 420 (2003), the Medical Marijuana Program Act enacted by the Legislature requires 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 requires the establishment of guidelines, including limits, for the lawful cultivation of cannabis grown for medical use.

Assembly Bill 1300 (2011), enacted by the Legislature, provides that a local government entity may enact an ordinance regulating the location, operation or establishment of a medical cannabis cooperative or collective; authorizes a local government entity to enforce such ordinances through civil or criminal remedies and actions; and authorizes a local government entity to enact any ordinance that is consistent with the Medical Marijuana Program.

Assembly Bill 243 (Chapter 688, 2015), Assembly Bill 266 (Chapter 689, 2015), and Senate Bill 643 (Chapter 719, 2015), establish 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 mandates 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. The MCCP is required 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 obligates 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 (CEQA) 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 (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.

Assembly Bill 2516 (2016), adds to the BPC section 19332 by establishing a specialty cottage medical cannabis cultivation license type required to be issued by the Department. This bill established the following canopy allowances for specialty cottage licenses: outdoor cultivation up to 25 plants, mixed-light cultivation sites up to 2,500 square feet, and indoor cultivation to 500 square feet or less.

Senate Bill 837 (2016), clarifies the Department's role in ensuring the MCRSA is enacted with proper consideration for the environment; consolidates the Department and the Board of Equalization's responsibilities in implementing one comprehensive track-and-trace system for medical cannabis; and identifies the manner in which cannabis cultivators, in coordination with the State Water Resource Control Board (SWRCB) and the Department of Fish and Wildlife (DFW), will ensure proper permitting for water use and mitigations for wildlife impacts.

Proposition 64 (2016), passed by California voters, also known as the Adult Use of Marijuana Act of 2016, legalizes recreational cannabis for persons aged 21 years or older and establishes certain sales and cultivation taxes. The Department is specifically required to establish the Marijuana Cultivation Program to license adult use commercial cultivators and establish an electronic track-and-trace system to monitor products from cultivation to sale.

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 SWRCB, the North Coast Regional Water Quality Control Board, and DFW 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 is in the process of preparing a Programmatic Environmental Impact Report (PEIR) in accordance with the provisions of the CEQA. Once certified, the PEIR will provide stakeholder, 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 Department anticipates the PEIR will be certified prior to these regulations becoming effective.

Objectives and Anticipated Benefits from this Regulatory Action:

Existing law obligates the Department to regulate all commercial medical cannabis cultivation conducted 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 MCRSA, 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.

Once State licensing is available to cannabis cultivators, local and State law enforcement will be able to clearly differentiate legal and illegal cannabis cultivation operations. This clear differentiation will allow 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 and as a result 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 this regulatory 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 REGULATION OR STATUTE

Cannabis is currently listed by the United States Drug Enforcement Administration under the Controlled Substances Act, as a Schedule 1 Drug that is defined as a drug with a high potential for abuse, has no currently accepted medical use in treatment in the United States, and there is a lack of accepted safety for use of the drug under medical supervision.

Controlled Substances Act, Title 21 - Food and Drugs, Chapter 13 - Drug Abuse and Prevention Control, Subchapter 1 - Control and Enforcement:

<http://www.fda.gov/regulatoryinformation/legislation/ucm148726.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 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

LOCAL MANDATE: There will be no local mandate. However, according to AB1300 local authorities may enact ordinances beyond that of State mandate BPC Section 19322 requires a license, permit, or authorization from the local jurisdiction prior to applying for a State license.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT REQUIRING REIMBURSEMENT PURSUANT TO GOVERNMENT CODE SECTION 17500 et seq:

None

ANY OTHER NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None

COST OR SAVINGS IN FEDERAL FUNDING TO STATE:

None

COST OR SAVINGS TO STATE AGENCIES (FISCAL IMPACT):

The Department is tasked with issuing medical cannabis cultivation licenses and administering all aspects of the medical cannabis cultivation regulations. The total ongoing annual agency budget of approximately \$16 million includes administration of both medical cannabis and adult use program activities.

The budget detail is broken-down by Department staff costs, other Department costs, and external consulting and technical services costs (including the track-and-trace program). The total estimated operating costs of the Department and AUMA programs are \$16.1 million once regulations are in place and licenses are being issued. This

analysis assumes the Department budget represents the market in equilibrium post-Department regulations. The Department share of the total operating budget is equal to the proportion of the medical cannabis to the total (legal) market. The total annual operating budget equals \$3.1 million. These costs are recovered through application and licensing fees charged to cultivators.

The Department is tasked with enforcing Department regulations for licensed medical cannabis cultivators. This includes site inspections and ensuring compliance with 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. However, because legal cultivators will be licensed by the Department and local authorities, it will be easier for local agencies to identify illegal 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 net effect on local expenditures due to the Department is indeterminate, but likely small. This analysis uses a mid-point cost of eradication equal to \$3 per plant, which is assumed to be inclusive of all incremental eradication/enforcement costs, and assumes that eradications increase by 15 percent over 2015 levels (2.6 million plants) under Department regulations. The total increase in enforcement costs equals \$1.189 million. This cost is likely borne by local law enforcement agencies.

DETERMINATION OF ANTICIPATED BUSINESS IMPACT:

The Department 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 the Department regulations, and therefore are “new” as far as the Board of Equalization 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 Department regulations will increase the number of legal medical cannabis cultivation businesses paying taxes in California.

Businesses will be required to submit an application to obtain a license from the Department. This proposed regulation includes the requirements that the applicant must meet and fees they must pay 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.

A net increase of 214 jobs statewide is expected from the Department regulations economic impact study. 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 impact on business and invites you to submit proposals. Submissions may include the following considerations:

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

These regulations will affect the cannabis cultivation industry and the supporting businesses. These businesses will now be required to maintain records listed in Section 8400 of the proposed regulations. Sections 8401-8407 will require these businesses to adhere to the Department's track-and-trace system. Licensees will also need to follow environmental protection measures to remain in compliance with the Department.

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. General safety may improve through better regulation, enforcement, and compliance (licensing), but there is currently limited evidence to support this assumption. There is no evidence of adverse health or public health 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 a decrease of \$1.7

million statewide annually. This is driven by the significant decrease in proprietor income to cultivators.

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.

RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA):

The SRIA addressed each of the following:

A) The creation or elimination of jobs within the state

A net increase of 214 jobs statewide is expected from the Department regulations economic impact study. Most of the increase comes from additional labor for local and State government and related programs.

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

The Department 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 the Department regulations, and therefore are “new” as far as the Board of Equalization 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 Department regulations will increase the number of legal medical cannabis cultivation businesses paying taxes in California.

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

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

D) The increase or decrease of investment in the state

The MCCP regulations are likely to spur investment in the California cannabis market. The analysis clearly shows that the MCCP regulations require significant

investment in specialty, small, and medium cultivation (and nursery and processing) businesses in California. Again, as noted previously, some of the new investment will be in businesses that have been operating as illegal cultivators for some time, and thus might not be considered “new” investment. In general, there is insufficient data to quantify the increase in new investment, compared to current established illegal businesses, as a result of the MCCP. The economic market analysis estimates that the total size of the medical cannabis market (farm-gate value) equals approximately \$365 million (after accounting for adult use legalization and the impact of MCCP regulations). At 8.84% average corporate tax rate, this results in \$32.2 million dollars in tax revenues.

E) The incentives for innovation in products, materials, or processes

The MCCP 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, thus there is an incentive to innovate. For example, cannabis production is labor intensive during the harvest/trimming process. At some level 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 by some cultivators. In general, the medical 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.

These 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.

Once State licensing is available to cannabis cultivators, local and State law enforcement will be able to clearly differentiate legal and illegal cannabis cultivation operations. This clear differentiation will allow 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.

DEPARTMENT OF FINANCE COMMENTS AND CDFA RESPONSES:

The Department of Finance (Finance) provided three key comments to the Department's Standardized Regulatory Impact Assessment (SRIA), which generally deal with two action items: local taxes, fees, and agency costs, and integrating the adult use cannabis market into the analysis. A summary of the comments and the Department's responses are below:

Finance Comment #1: "the SRIA must include an estimate of the local revenue increases from the state regulating medical cannabis. While collecting fees at the local level is not under the control of the state, there will be other impacts from excise fees. The SRIA does a good job of including local fees and enforcement in the discussion of cultivator incentives, and it would aid the reader to have the local government side laid out in parallel, both the impacts due to the regulation (as required), and the assumed impacts from local government choices."

The Department concurs with this comment and has made adjustments accordingly. There are two related points raised here: the SRIA should include local revenues that result from state regulations, and the SRIA should be clearer in describing the magnitude of these effects. The SRIA has been modified to be clearer in our description of local impacts and revenues.

The Department defined and measured local fees, taxes, and state regulation impacts where it is clear that there is a specific requirement for them. While it is possible that counties will levy additional fees on medical cannabis production the SRIA was prepared with the best available information at the time, and could not explicitly address these unknowns. The Department summarized (estimated) the impact of known local fees and taxes in Section 5.3.2 of the SRIA. Fees include registration and cultivation fees, which vary significantly by county (between \$0 and \$25 per square-foot of canopy). There are many additional local ordinances that are being considered, but are not currently implemented, and the Department does not explicitly consider these in the analysis. In addition, many cities and counties are considering—or have already passed—additional taxes on cannabis businesses. However, these taxes have not been clearly specified in most cases. For example, in many counties/cities it is often not clear whether local taxes will apply to retail cannabis establishments or cultivators (or both). To address this uncertainty the Department assumed a local 0.75% business tax for

medical cannabis cultivators, but note that this will likely change under the adult use regulations. The total (direct, indirect, and induced) effect of local fees and taxes is shown under “Local Government” in Table 23 and “Local Government Expenditures” in Table 27, both of which were included in the SRIA submitted to Finance.

The next question is what local fees and taxes should be attributed to the economic impact of state MCCP regulations. As noted in the SRIA, the Department was purposefully conservative and included all local requirements in the economic impact of the state MCCP regulations because the state regulations require cultivators to be in compliance with all local ordinances. However, there is no specific requirement for local entities to regulate medical cannabis in addition to the state regulations.

The Department has modified section 5.3.2 of the SRIA to clarify our interpretation of local fees and taxes in response to Finance comments, following the discussion outlined here. The Department has also added a paragraph to section 6.2.2 highlighting the increase in local agency revenues modeled in the economic impact analysis (Table 23).

Finance Comment #2: “The assumptions regarding other state agency costs must be included in the SRIA.”

The Department agrees and apologizes for failing to transfer the comments in the Standard form 399 into the final version of the SRIA. The assumptions regarding other state agency costs are now summarized in Section 6.4.9 of the SRIA. The Department has modified the summary to be clearer about our assumptions, and explicitly state that no increase in other state agency costs as a result of MCCP regulations is assumed. In particular, the Department is explicit that statute requires other state agencies to take actions (e.g. Water Boards must regulate water quality), but that is not included in the MCCP regulations.

Finance Comment #3: “the model omits the third option for cultivators to comply only with (unknown) adult use future regulations, as the model assumes that the choice by cultivators is between complying with the proposed regulations or remaining illegal. To the extent that medical cannabis regulations are geared towards maximum safety, adult use regulations may be less stringent and more attractive from a compliance standpoint.”

The Department agrees with this comment and has been explicit (in Section 3.6 of the SRIA) about the “unconventional nature” of completing an economic impact analysis using an equilibrium displacement model where one market segment—which is a close and direct substitute for the market segment in question—is assumed to be

unregulated. It is absolutely critical to consider adult use and medical cannabis jointly so that the marginal costs of the regulations can be accurately calculated for each market segment, and in turn, evaluate the incentives for cultivators to participate in either market.

The Department has excluded the adult use analysis from this SRIA for two reasons. First, conditions and regulations for adult use have not yet been promulgated in sufficient detail to measure their economic impact. Second, the charge and scope of this economic impact analysis was specifically to address the SRIA for medical cannabis and not the whole system of combined medical and adult use. This is because the MCCP was well underway before voters approved Proposition 64. Accordingly, the Department has analyzed the economic impacts of regulations on medical cannabis, and while acknowledging the linkage on the production side with adult use, has deliberately avoided speculating on potential regulatory impacts for that sector of the industry, for the time being. No edits were made to the SRIA in response to this comment.

HOUSING COSTS:

None

SMALL BUSINESS IMPACT:

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

BUSINESS REPORTING REQUIREMENT

The Department finds that it is necessary for the health, safety, or welfare of the people of this State that the proposed regulation, which requires a report, apply to businesses.

CONSIDERATION OF ALTERNATIVES

Two alternative Department regulations were considered in the economic analysis. The preferred regulatory alternative analyzed for the economic impact analysis largely follows the statutory requirements of the MCRSA. Rather than considering more or less strict regulations, this alternative regulation analysis considers distributional effects of the Department licensing and application fees. In particular, the alternatives evaluate the effect of different fees on cultivators with different scale and production technology.

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. Small and outdoor cultivators already shoulder a larger share of Department regulatory costs.

The second alternative considers Department license and application fees that are set based on cottage, specialty, small, and medium operations. That is, the application fee is fixed, and the license fee increases with cultivation size, but does not acknowledge differences in productivity. It is rejected because it penalizes cultivators with lower productivity per square-foot of canopy.

The Department must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 provision of law than the proposal described in this Notice.

CONTACT PERSONS/AVAILABILITY OF DOCUMENTS

Inquiries concerning the proposed action may be directed to:

Rachelle Kennedy
California Department of Food and Agriculture
CalCannabis Cultivation Licensing
1220 N Street
Sacramento, CA 95814
Phone: (916) 263-0801
Email: CalCannabisRegs@cdfa.ca.gov

The backup contact person for these inquiries is:

Lindsay Rains
California Department of Food and Agriculture
CalCannabis Cultivation Licensing
1220 N Street
Sacramento, CA 95814
Phone: (916) 263-0801
Email: CalCannabisRegs@cdfa.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. 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. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

Please direct requests for copies of the text (i.e., the “express terms”) of the proposed regulations, the initial statement of reasons, the modified text of the proposed regulations (if any), or other information upon which this rulemaking is based, to Margaret Cornell at the above address or email at: CalCannabisRegs@cdfa.ca.gov.

INTERNET ACCESS

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