

Memorandum

**Subject: Bureau of Cannabis Control
Initial Study/Negative Declaration, SCH No. 2017092017
Consideration of Comments Received during the Public Review Period**

Date: October 26, 2017

To: Lori Ajax, Bureau of Cannabis Control

From: Michael Stevenson

INTRODUCTION

This memorandum has been prepared to summarize the comments received by the Bureau of Cannabis Control (Bureau) on the Initial Study/Proposed Negative Declaration (IS/ND) for the Cannabis Business Licensing Program (Proposed Program). The overall goal of the Proposed Program is to establish a regulatory licensing and enforcement program for commercial cannabis activities. The Proposed Program will ensure that medicinal and adult-use commercial cannabis activities are performed in a manner that avoids significant adverse impacts on the environment, cannabis industry workers, and the general public from the individual and cumulative effects of these commercial cannabis activities, and complies with applicable laws, including the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

An IS/ND is an informational document prepared by a lead agency, in this case, the Bureau, that provides environmental analysis for public review. The Bureau is responsible for developing regulations for the licensing of various types of commercial cannabis businesses in California, including distributors, retailers, testing laboratories, and microbusinesses. The Bureau will develop regulations and issue licenses to commercial medicinal and adult-use cannabis businesses. The Bureau's adoption and implementation of these regulations is the Proposed Program. The IS/ND analyzed the impacts resulting from the Proposed Program.

In addition to acting as the lead agency on the Proposed Program, the Bureau is acting as a responsible agency on the Program Environmental Impact Report (PEIR) prepared by the California Department of Food and Agriculture (CDFA) for its CalCannabis Cultivation Licensing Program. The Bureau is responsible for licensing commercial cannabis microbusinesses, one element of which may include cannabis cultivation. Cultivation activities conducted as part of a microbusiness would need to comply with CDFA's regulations governing cultivation. CDFA has prepared a PEIR that considers in great detail the potential impacts of cannabis cultivation pursuant to the agency's anticipated regulations. Rather than repeat that analysis, the Bureau's IS/ND incorporated the analysis and included the CDFA Draft PEIR as an appendix to the IS/ND. In the Bureau's IS/ND, the potential impacts from cultivation as a part of microbusiness licensing are summarized within each topical resource section in a discussion that is separate from the impact discussions of other aspects of the microbusiness license and other license types. In making its impact conclusions, the Bureau considered the impacts of the Proposed Program as a whole, including microbusiness cultivation, other aspects of the microbusiness, and other license types. The IS/ND concluded that the Proposed Program would not result in any significant impacts.

This memorandum first summarizes the public review process undertaken for the IS/ND and identifies the next steps in the California Environmental Quality Act (CEQA) process, and then summarizes the comments received and provides responses to those comments.

CEQA PROCESS

In accordance with Section 15073 of the *Guidelines for the Implementation of CEQA* (Cal. Code Regs., tit. 14, §15000 et seq.; hereafter Guidelines), the Bureau submitted the IS/ND to the State Clearinghouse for a 30-day public review period starting September 6, 2017. On the first day of the public review period, the Bureau issued a Notice of Intent (NOI) to adopt a negative declaration to provide agencies and the public with formal notification that the IS and proposed ND were available for review. The NOI was sent to all responsible and trustee agencies, any person or organization requesting a copy, and all 58 county clerks' offices for posting. A legal notice was also published in a number of general-circulation newspapers. The Bureau also submitted the NOI and a Notice of Completion (NOC) to the State Clearinghouse.

Publication of the NOI initiated a 30-day public review period, during which the Bureau received and collated public and agency comments on the Proposed Program and the IS/ND. The Bureau hosted three public meetings around the state after release of the IS/ND, in Long Beach, Fresno, and Sacramento. The purpose of public circulation and the public meetings is to provide public agencies, other stakeholders, and interested individuals with opportunities to comment on the content of the IS/ND. According to the State Clearinghouse CEQANet database, the public review period ended on October 6, 2017. During this review period, 50 comment letters were received. Of these, 47 comment letters were related to the IS/ND or the Bureau's regulations. The other three comment letters did not relate to the IS/ND or the regulations.

In accordance with Guidelines Section 15074(b), the Bureau must consider the IS/ND together with comments relevant to the CEQA analysis received during the public review process prior to adopting the IS/ND. The Guidelines do not require the preparation of a response to comments for negative declarations; however, this memorandum has been prepared to document that the comments received do not affect the IS/ND's conclusions that the Proposed Program would not have any significant effects on the environment. As such, the IS/ND does not need to be recirculated, nor is any other CEQA document necessary at this time in support of the Proposed Program. Several of the comments received were not relevant to the CEQA analysis as they were specific to the Bureau's regulations or cannabis licensing in general. CEQA guidelines do not require consideration or a response to those comments, but in an effort to aid the general public in their understanding of the regulations the Bureau has included responses to those comments in this memorandum.

Within five days of approving the IS/ND, the Bureau must file a Notice of Determination (NOD) with the State Clearinghouse. A resolution approving the IS/ND and an NOD will be prepared for the Bureau's use in this process. This resolution will identify that the Bureau has received and reviewed the IS/ND pursuant to the provisions of CEQA and makes the following findings:

1. Prior to taking action on the IS/ND for the Proposed Program, the Bureau read and considered said IS/ND.
2. The IS/ND is based on independent judgment exercised by the Bureau.
3. The IS/ND was prepared and considered in accordance with the requirements of CEQA.

4. Considering the record as whole, there is no substantial evidence that the Proposed Program will have a significant effect on the environment.
5. The Bureau is the custodian of the records of the proceedings on which this decision is based. Records are held at the Bureau's offices located at 1625 North Market Boulevard, Suite S-202, Sacramento, CA 95834.

The resolution will identify that, based on the above findings, the Bureau Chief approves the IS/ND, and directs staff to file the NOD. In addition, the Bureau will make findings as a responsible agency on the CDFA PEIR, as discussed above.

COMMENTS RECEIVED ON THE IS/ND

During the public review period, the Bureau received 50 comment letters on the IS/ND, 47 of which were related to the IS/ND. These letters are included with this memorandum as **Attachment A**.

Three comments were received that were not substantive and/or did not relate to the IS/ND or the regulations. These letters are included with this memorandum as **Attachment B**.

Table 1-1 identifies comments received on the IS/ND, the affiliation of the commenter, if provided, and the date comments were received by the Bureau. Comments identified with an asterisk are not related to the IS/ND or the Bureau's regulations; therefore, no response is provided.

Table 1-1. Comments Received on the IS/ND

Letter No.	Commenter	Affiliation	Date Submitted
1	Dennis James	N/A	9/6/2017
2	Rudy Reyes	N/A	9/6/2017
3	James Brady	Eco Bro	9/6/2017
4	Eric Carlson	International Hemp Solutions	9/6/2017
5	Robert W. Vaughn	N/A	9/6/2017
6	Sabrina Smith	CDPH	9/6/2017
7	Ken Kribel	N/A	9/7/2017
8	James Hanson	Dank City Collective	9/7/2017
9	Nshan Norashkaryan	N/A	9/7/2017
10	Gary Jost	N/A	9/7/2017
11	Sean Doherty	N/A	9/7/2017
12	Richard Bryant	N/A	9/7/2017
13	Roger Morgan	Take Back America	9/10/2017
14	Benson Hausman	Elemental Wellness Center	9/8/2017
15	Mort Barke	N/A	9/12/2017
16	AllEvents*	N/A	9/12/2017

Bureau of Cannabis Control/Commercial Cannabis Licensing Program
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Letter No.	Commenter	Affiliation	Date Submitted
17	Michelle Sexton	N/A	9/13/2017
18	Joey Jones	N/A	9/17/2017
19	Joseph Ellinwood	Humboldt County	9/19/2017
20	Ken Bowling	N/A	9/20/2017
21	Robert S.	N/A	9/22/2017
22	Richard Jackson	N/A	9/21/2017
23	Ryan Doronila	N/A	9/21/2017
24	Reginald Cook	Eastern Sierra Botanical Collective	9/22/2017
25	Saira Saleem	Cannabis Compliance, Inc.	9/8/2017
26	Kwan Hearn	N/A	9/24/2017
27	Michelle Mangione*	N/A	9/19/2017
28	Carl Johnson	N/A	9/15/2017
29	Gregory Turner	N/A	9/25/2017
30	Michaela	Higher Elevation Community Collective	No date
31	Paul Hansbury	N/A	No date
32	Robert Ketchum	N/A	No date
33	Roderick Renfrew* William McNeeley	N/A	No date
34	Carolyn Childen	N/A	No date
35	Tomer Grassiany	N/A	No date
36	Brandon Hall	N/A	No date
37	Susan Tibbon	N/A	9/21/2017
38	Louis Winthorpe	N/A	9/27/2017
39	Michael Ciccozzi	El Dorado County Counsel	10/2/2017
40	Society of Cannabis Clinicians	Society of Cannabis Clinicians	9/28/2017
41	Timothy Vertino	County of San Diego	10/5/2017
42	Julie VanTilburg	N/A	10/6/2017
43	Gene Whitehouse	United Auburn Indian Community	9/20/2017
44	Arthur Wylene	Rural County Representatives of California (RCRC), the Urban Counties of California (UCC), and the California State Association of Counties (CSAC)	10/6/2017
45	Jessie Kempf	N/A	10/5/2017
46	Kevin Chun	City of Paramount	10/6/2017

Letter No.	Commenter	Affiliation	Date Submitted
47	Scott Chipman	Citizens Against Legalizing Marijuana	10/6/2017
48	Sun Prince	Pharcyde TV	No date
49	Mateo Nagassi	N/A	No date
50	Karen Wilson	South Fork Trinity Up-River Friends	10/3/2017

*Comment not related to the IS/ND or Bureau regulations. Response not provided.

MASTER RESPONSES

For certain topics, the Bureau received a number of similar comments. The Bureau has prepared the following master responses to these topics. Following the master responses, the individual responses section of this memorandum contains individual comments and the Bureau's response or directs the reader to the correlating master response(s).

Master Response 1 (Copies of document)

Several individuals wrote to the Bureau requesting copies of the IS/ND. The Bureau mailed a CD-ROM copy of the IS/ND to each individual who made this request.

Master Response 2 (Additional Public Workshops)

Several individuals submitted comments requesting additional public workshops on the IS/ND. CEQA does not require a lead agency to conduct public workshops, meetings, or hearings in conjunction with public review of an IS/ND. However, to facilitate the public's review of the IS/ND, the Bureau chose to go beyond CEQA's requirement by holding a series of three public workshops throughout the state during the public review period; workshops were held in Long Beach, Fresno, and Sacramento. While it was not possible to conduct workshops in every part of the state, these locations were selected to provide broad geographic coverage. The Bureau considered these comments but determined that additional workshops were not necessary as the workshops were organized to target a broad audience and comments on the IS/ND were also accepted by mail and email, and the meeting materials were made available upon request.

Master Response 3 (Mailing List)

Several individuals contacted the Bureau requesting to be added to the Bureau's mailing list. These individuals have been added to the Bureau's mailing list using the contact information.

Master Response 4 (Terpene testing)

The Bureau received several comments requesting that the Bureau institute mandatory testing for terpenes and terpenoids. These comments address the cannabis licensing regulations generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND; however the Bureau acknowledges these comments. The Bureau's regulations do provide for testing of terpenes and terpenoids in certain instances. Specifically, MAUCRSA and the Bureau's regulations require terpene testing when the product label specifies the terpene content and/or concentration in the product. (See Bus. & Prof. Code §26100.) Testing for these compounds in other circumstances is also not prohibited and can be undertaken by licensees on a voluntary basis.

CONSIDERATION OF INDIVIDUAL COMMENTS

For the following comment letters, the Bureau has prepared individual responses. For the purposes of preparing these responses, each of the comment letters has been subdivided into individual comments. For example, in Comment Letter 4, the first comment provided in that letter is identified as Comment 4-1, the second comment is identified as Comment 4-2, and so on. In Attachment A, which contains copies of all substantive comment letters received, markings delineate each individual comment.

A number of the comments address the Bureau's licensing regulations and commercial cannabis licensing generally, rather than the IS/ND itself. This is noted in the responses provided.

Comment Letter 1 – Dennis James

Response to Comment 1-1

The comment requests information about how to apply for a “specialty cottage outdoor license.”

This comment addresses the licensing regulations and cannabis licensing generally, rather than the IS/ND. However, the licensing agency responsible for commercial cannabis cultivation, and more specifically specialty cottage outdoor cultivation, is the CDFA.

Comment Letter 2 – Rudy Reyes

Response to Comment 2-1

The comment requests an additional IS/ND public workshop in Southern California, specifically San Diego.

See Master Response 2.

Comment Letter 3 – James Brady

Response to Comment 3-1

The comment asks when the advisory board will be appointed.

This comment is unrelated to the Bureau's IS/ND; however, the Bureau announced the members of the State's new Cannabis Advisory Committee on October 4, 2017. Additional information and meeting agendas will be posted at www.bcc.ca.gov and on the Cannabis Web Portal, www.cannabis.ca.gov.

Comment Letter 4 – Eric Carlson

Response to Comment 4-1

The comment requests that the Bureau change its cannabis waste regulation policy to allow on-site destruction of cannabis waste using a process called anaerobic fermentation, or “bokashi.”

This comment addresses the Bureau's regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND. Cannabis businesses are subject to applicable waste management laws including, but not limited to, Division 30 of the Public Resources Code.

Response to Comment 4-2

The comment reiterates comment 4-1. See Response to Comment 4-1.

Comment Letter 5 – Robert W. Vaughn

Response to Comment 5-1

The comment requests two additional IS/ND public workshops, including one in the Inland Empire. The comment asks why the public workshops are scheduled for only two hours.

See Master Response 2. Regarding the workshop duration, the Bureau found that two hours was adequate for attendees to interact with Bureau and contractor staff, and provide their comments and questions.

Comment Letter 6 – Sabrina Smith, CDPH

Response to Comment 6-1

The comment asks for more detailed information on what will be included or needed to obtain a regulatory license that includes the enforcement program for commercial cannabis distributors, retailers, testing laboratories, and microbusinesses.

This comment addresses the Bureau's regulations and cannabis licensing generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, the Bureau's regulations will describe the requirements for commercial cannabis distributors, retailers, testing laboratories, and microbusinesses. For a summary of the anticipated regulations, see Chapter 2 of the IS/ND, *Proposed Program Description*.

Comment Letter 7 – Ken Kribel

Response to Comment 7-1

The comment objects to the prohibition on manufacturing cannabis-infused jerky and dried meats.

This comment addresses the cannabis licensing regulations generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, the Bureau is not the licensing agency for licensing commercial cannabis product manufacturing, and therefore this issue is outside the scope of the Bureau's regulatory authority. The Manufactured Cannabis Safety Branch, a division of California Department of Public Health (CDPH), will be licensing cannabis manufacturers. While the Bureau will be issuing licenses for microbusinesses that may engage in cannabis manufacturing, such activities as part of a microbusiness license must be conducted in compliance with CDPH's regulations,

Comment Letter 8 – James Hanson, Response to Comment 8-1

The comment requests a CD-ROM copy of the regulations.

See Master Response 1.

Comment Letter 9– Nshan Norashkaryan

Response to Comment 9-1

The comment requests a CD-ROM copy of the IS/ND.

See Master Response 1.

Comment Letter 10 – Gary Jost

Response to Comment 10-1

The comment requests a CD-ROM copy of the IS/ND.

See Master Response 1.

Comment Letter 11 – Sean Doherty

Response to Comment 11-1

The comment requests a CD-ROM copy of the IS/ND.

See Master Response 1.

Comment Letter 12 – Richard Bryant

Response to Comment 12-1

The comment requests an application for a cannabis delivery business.

This comment addresses the cannabis licensing program regulations and process, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, Bureau applications for cannabis business licenses are not yet available at the time of this writing.

Comment Letter 13 – Roger Morgan, Take Back America

Response to Comment 13-1

The comment objects to the issuance of a negative declaration for the cultivation and distribution of cannabis.

The comment does not specifically comment on the analysis provided within the IS/ND. Accordingly, the author has not provided information that would qualify as a “fair argument” that an environmental impact report should instead be prepared (see *Association for Protection of Environmental Values v. City of Ukiah* (1991) 2 Cal.App.4th 720, 735-736 [to meet the “fair argument” burden, opponents must produce some evidence, other than their unsubstantiated opinions, that a project will produce a particular adverse effect”]; citing *Newberry Springs Water Assn. v. County of San Bernardino* (1984) 150 Cal.App.3d 740, 748-749.) The analysis in the Bureau’s IS/ND concluded that there would be no potential for a significant impact on the environment from adoption and implementation of its regulations. Therefore, a negative declaration is the appropriate CEQA document.

The Bureau further directs the commenter to Public Resources Code section 21064, which defines a negative declaration as “a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental impact report.” The Bureau also notes Guidelines section 15070, which directs a public agency to prepare a proposed negative declaration for a project subject to CEQA when the initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment.

Response to Comment 13-2

This comment states that regulating an illicit drug is inherently impossible. The comment states that 90 percent of those growing and selling cannabis in Humboldt, Trinity, and Mendocino Counties are ignoring licensing regulations and that this is the same in every county because of limited resources.

This comment addresses cannabis regulation in general rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, MAUCRSA mandates the Bureau to regulate and license qualified persons to engage in medicinal and adult-use commercial cannabis activities.

Response to Comment 13-3

This comment states that cultivation sites are polluting streams and forests, killing wildlife, and destroying the quality of life in our communities.

One of the stated goals of MAUCRSA, which imposes a regulatory structure on cultivation of medicinal and adult-use cannabis, is to put into place environmental protections and curb illegal cultivation practices that may have a detrimental impact on the environment. MAUCRSA puts into place many regulatory protections, including requirements related to pesticide use, water diversions and permissible water sources, discharges to water bodies, and handling of hazardous substances. CDFA is the State agency tasked with regulating and licensing commercial cultivation activities. While the Bureau will be issuing licenses for microbusinesses that may include the cultivation of cannabis, cultivation activities under a microbusiness license must comply with CDFA regulations.

In terms of the impacts described in the comment, CDFA's PEIR for its commercial cultivation licensing program considered these and other potential environmental impacts of cannabis cultivation. The Bureau, in its role as a responsible agency for that PEIR, has relied upon the conclusions of the PEIR regarding the potential environmental impacts of cultivation by a microbusiness. These conclusions have been summarized in the Bureau's IS/ND. A detailed analysis of the potential impacts from the Proposed Program relating to the use of pesticides and other hazardous chemicals is contained in the IS/ND at Section 4.3, *Biological Resources*, and at Section 4.5, *Hazards, Hazardous Materials, and Human Health*. The full text of CDFA's PEIR can be reviewed on the internet at cannabis.cdfa.ca.gov.

The Bureau recognizes that CDFA has updated the text of its PEIR in response to public comments received on the Draft PEIR, as well as changes initiated by CDFA in response to the passage of MAUCRSA. CEQA case law emphasizes that "[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736-737; see also *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11.) "CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.' [Citation.] In short, a project must be open for public discussion and subject to agency modification during the CEQA process." (*Concerned Citizens of Costa Mesa, Inc. v. 33rd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 936.) Here, the changes made to the PEIR in the Final PEIR are exactly the kind of revisions that the case law recognizes as legitimate and proper. The Bureau has reviewed these changes and determined that they do not affect the conclusions of the CDFA PEIR or the Bureau's IS/ND.

Response to Comment 13-4

This comment states that the regulatory structure will not prevent access to cannabis by persons under 21. The commenter believes that cannabis is not medicine.

This comment addresses the cannabis licensing program regulations and process, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, MAUCRSA and the Bureau's anticipated licensing regulations contain provisions intended to prevent access to cannabis by persons under 21 who do not have a physician's recommendation to use medicinal cannabis. (See Bus. & Prof. Code §26140.)

The issue of whether cannabis is medicine is outside the Bureau's regulatory authority. However, MAUCRSA mandates the Bureau to regulate and license qualified persons to engage in medicinal and adult-use commercial cannabis activities.

Response to Comment 13-5

In this comment, the commenter does not believe that tax revenues will pay for licensing regulations because medicinal cannabis is not taxed.

This comment addresses the cannabis licensing program regulations and process, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, under MAUCRSA, licensure and renewal fees shall be calculated to cover the Bureau's regulatory costs. (See Bus. & Prof. Code §26180.)

Response to Comment 13-6

This comment states that the Medical Cannabis Regulation and Safety Act (MCRSA) allows only for one peace officer to seize and destroy cannabis.

This comment addresses cannabis enforcement generally, rather than the analysis of the Proposed Program contained in the IS/ND. However, the MCRSA has been repealed and the governing law regarding medicinal and adult-use cannabis activities is MAUCRSA. MAUCRSA has no restrictions on the number of peace officers that may seize and/or destroy illegal cannabis. (See Bus. & Prof. Code §§ 26035 and 26135.)

Response to Comment 13-7

This comment states that public health and safety cannot be protected because cannabis has adverse health effects on humans.

The Proposed Program focuses on aspects of cannabis commerce such as distribution and retail sales, and does not regulate the use of cannabis itself. Therefore, the Proposed Program does not result in any direct impacts to human health as a result of cannabis consumption. That said, the IS/ND contains an extensive discussion about potential adverse effects of cannabis consumption, in Chapter 5, Mandatory Findings of Significance, Section 5.3.2, *Cumulative Setting*, and concludes:

The extent to which significant cumulative impacts [as a result of cannabis consumption] exist to which the Proposed Program could contribute is difficult to determine, as the analysis would be based on individual exposures in a range of different settings and lifestyle patterns. For instance, a retail store worker at a site which also allows on-site cannabis consumption (e.g., smoking, vaping) who also

directly consumes cannabis may be at increased exposure risk; similarly, a worker who does not consume cannabis may or may not be exposed to similar risks from other sources (e.g., smoking tobacco).

Furthermore, licensing cannabis business activities does not compel the consumption of cannabis or any other item that may create human health risk. Individuals are able to make their own decisions about whether to consume cannabis and cannabis products, the type of product and mode of consumption, and, with laboratory testing results, the extent to which that product contains chemicals that could pose a health concern.

Based on the uncertainties regarding the forms and levels of exposure and the fact that the Proposed Program does not compel cannabis consumption, the IS/ND concluded that the Proposed Program would not make a considerable contribution to cumulative adverse health effects related to cannabis consumption. This comment did not provide substantial evidence beyond what was analyzed in the IS/ND, and the IS/ND concluded that the impact would be less than significant.

Response to Comment 13-8

This comment states that the State of California has not made an effort to educate the public on harms of cannabis use.

MAUCRSA provides funding for a public information campaign to provide consumers with information regarding topics, such as the scientific basis for restricting access of cannabis and cannabis products to persons under the age of 21; the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from cannabis use; the potential harms of using cannabis while pregnant or breastfeeding; and the potential harms of overusing cannabis or cannabis products. (See Bus. & Prof. Code §26211.) In September 2017, CDPH launched a health information and education campaign about what is legal in California and potential health impacts of cannabis use. More information on CDPH's cannabis education campaign can be found on their website at www.cdph.ca.gov.

Response to Comment 13-9

This comment states that cannabis use results in harm to human health including brain damage, psychotic breaks, mental illness, addiction, birth defects, physical harms, traffic deaths.

See Response to Comment 13-7 for the Bureau's response to issues regarding cannabis use and human health. In addition, the commenter is referred to the discussion in Chapter 5, Mandatory Findings of Significance, Section 5.3.2, *Cumulative Setting*, which addresses the potential for increased traffic deaths as a result of cannabis use.

Response to Comment 13-10

This comment states that allowing persons to have up to six plants in their homes for personal use will make access to cannabis easier for young people.

Such issues are outside of the scope of CEQA and outside of the Bureau's regulatory authority. Health and Safety Code 11362(1) permits persons 21 years of age and older to cultivate up to six living cannabis plants.

Response to Comment 13-11

This comment states that cannabis cultivation sites attract crime, result in unpleasant odors, and create hazardous pesticide drift.

While the Bureau is not the agency responsible for licensing commercial cannabis cultivation, the Bureau will be issuing licenses for microbusinesses that may include the cultivation of cannabis. Cultivation of cannabis by a microbusiness must follow CDFA's regulations governing cultivation. The Bureau's IS/ND evaluated potential impacts of cultivation as part of microbusinesses. The comment did not provide substantial evidence not already considered in the IS/ND analysis.

The comment first notes that cannabis cultivation sites attract crime. The IS/ND reviewed the research and findings contained in the CDFA PEIR relating to crime associated with cultivation sites and the potential for increased need for police services as a result of the Proposed Program. In Section 4.7.4, in *Impacts Related to Microbusiness Cultivation*, the IS/ND found that:

No information was found that indicates that licensed cannabis cultivation would increase law enforcement needs overall compared to baseline conditions. If anything, demand may decrease the potential conversion of unlicensed cultivators to licensed lawful cultivators and their coordination and cooperation with law enforcement authorities. Furthermore, linking any increase in demand for law enforcement to a need for new or additional police facilities in any particular location, the construction of which could cause significant environmental effects, is speculative.

The comment next expresses concern regarding "unpleasant odors" as a result of cannabis cultivation. The IS/ND also examined the issue of odors resulting from cannabis cultivation in Section 4.2, *Air Quality*. Research conducted in preparation of the IS/ND found that "the determination of odors as offensive or a 'nuisance,' particularly cannabis, is quite often subjective and based on a number of factors. For example, the Oregon judicial system found that cannabis odors can be offensive to some people and enjoyable to others (Los Angeles Times 2015)." As noted in the analysis, to the extent that a community finds that odor resulting from commercial cannabis activity is objectionable, the Bureau anticipates that the community may develop odor control requirements that correspond to their local community expectations and standards, including and up to banning commercial cannabis activity altogether. The analysis found that on a statewide level, the cultivation of cannabis as part of a microbusiness would not be expected to create odors that would be considered objectionable by a substantial number of people.

Finally, the comment expresses concern about hazardous pesticide drift. Section 4.6, *Hazards, Hazardous Materials, and Human Health*, discusses the use of pesticides as related to microbusiness cultivation under the Proposed Program. The IS/ND reviewed and relied upon the CDFA PEIR in its analysis of the potential impacts of pesticide use in cannabis cultivation. The IS/ND noted that:

A screening-level human health risk assessment conducted for CDFA's Draft PEIR found no significant risks to human health as a result of pesticide use by cannabis cultivators. The Draft PEIR found that, although cultivator exposure to certain chemicals could result in localized skin, eye, throat, or lung irritation, none of these effects are anticipated to be significant. In general, most chemicals that may be used as pesticides for licensed cultivation, and that were evaluated in the risk assessment, have histories of safe use, and all of these chemicals are exempt from food tolerance limits, due in part to their substantially low toxicity.

Additionally, the IS/ND noted that environmental protection measures will be contained in CDFA's cultivation regulations would help prevent pesticide drift.

Response to Comment 13-12

This comment states that California should observe federal prohibition on cannabis. The commenter does not believe that all cannabis grown in state is intended for use in California.

Such issues are outside of the scope of the Bureau's regulatory authority.

Comment Letter 14 – Benson Hausman

Response to Comment 14-1

The comment requests that the Bureau's regulations include required testing for terpenes and terpenoids.

See Master Response 4.

Comment Letter 15 – Mort Barke

Response to Comment 15-1

The commenter is concerned that patients will need to wait 1 to 2 months or longer to obtain a health department ID card that will allow them to purchase cannabis without sales tax. The comment requests that only a doctor's recommendation should be required to purchase medicinal cannabis.

This issue is outside the Bureau's regulatory authority and governed by statute. Under MAUCRSA an individual with a valid physician's recommendation may purchase medicinal cannabis. However, pursuant to Section 34011 of the Revenue and Taxation Code only a qualified patient or the primary caregiver for a qualified patient who provides a card issued pursuant to the Medical Marijuana Identification Card Program is exempt from the sales and use tax. (See Rev. & Tax. Code § 34011.) and Additionally, CDPH administers the Medical Marijuana Identification Card Program pursuant to Health and Safety Code section 11362.71.

Comment Letter 17 – Michelle Sexton

Response to Comment 17-1

Commenter is concerned that there is no requirement for testing terpenes.

See Master Response 4.

Comment Letter 18 – Joey Jones

Response to Comment 18-1

The comment requests protections for persons that are allergic to cannabis smoke.

This issue is outside the Bureau's regulatory authority. The Bureau does not regulate the use of cannabis.

Response to Comment 18-2

The comment requests that cannabis production be limited to industrial areas.

This issue is outside the Bureau's regulatory authority. Local jurisdictions such as cities and counties are responsible for making decisions regarding land use, zoning, and the locations of businesses, including cannabis production sites.

Comment Letter 19– Joseph Ellinwood, Humboldt County

Response to Comment 19-1

The comment advises that the summary of the Humboldt County cannabis regulations is outdated, and that medical cannabis dispensaries are permitted in inland portions of the county.

The Bureau appreciates this information.

Comment Letter 20 – Ken Bowling

Response to Comment 20-1

The comment requests that the regulations require the retailer to demonstrate proficiency and knowledge of products being sold, to have a code of ethics, and to be certified through the Department of Consumer Affairs as a qualified person to sell cannabis.

This comment addresses the Bureau's regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND. However, the Bureau's regulations will contain rules for retailers. For a summary of the anticipated regulations, see Chapter 2 of the IS/ND, *Proposed Program Description*.

Comment Letter 21 – Robert S.

Response to Comment 21-1

The comment requests that the State Board of Pharmacy should make it mandatory for each dispensary (retailer) to be inspected.

This comment addresses the Bureau's regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND. This issue is outside the Bureau's regulatory authority as it pertains to the State Board of Pharmacy, which has not been charged with licensing or inspection authority under MAUCRSA.

Comment Letter 22– Richard Jackson

Response to Comment 22-1

The comment requests that businesses that have obtained local approvals or licenses to operate cannabis businesses be allowed to operate following January 1, 2018 without a state license, while the state license application is pending.

This comment addresses the Bureau's regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND. Additionally, MAUCRSA requires cannabis businesses in California to hold a license issued by the appropriate licensing authority prior to conducting business, beginning January 1, 2018 (Bus. & Prof Code §26012). However, MAUCRSA provides that the Bureau may provide temporary licenses to businesses that have a permit, license, or other authorization from their local jurisdiction. (See Bus. & Prof. Code §26050.1.)

Comment Letter 23– Ryan Doronila

Response to Comment 23-1

The commenter requests state or county funding for academic cannabis education programs.

This comment does not address the substantive analysis contained in the IS/ND. Additionally, this issue is outside the scope of the Bureau’s regulatory authority.

Comment Letter 24– Reginald Cook

Response to Comment 24-1

The comment expresses concern about regulations requiring plants to be tested prior to extraction (manufacturing) processes. The commenter is concerned that the plant will degrade during the time that elapses while testing is taking place.

This comment addresses the Bureau’s regulations and cannabis licensing generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, MAUCRSA requires cannabis and cannabis products to be tested before being sold or transferred to a retailer. The Bureau would like to clarify that cannabis plants and/or plant material is not required to be tested before a cultivator transfers plants and/or plant material to a manufacturer. Rather, the final products manufactured by the manufacturer must be tested before being sold or transferred to a retailer.

Response to Comment 24-2

The comment is concerned with the structure of the track-and-trace system as it relates to tracking plant material by cultivators.

This comment addresses the regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND. However, the agency responsible for establishing and regulating the track-and-trace system is CDFA.

Comment Letter 25– Saira Saleem

Response to Comment 25-1

The comment asks whether individuals outside the State of California may comment on the IS/ND.

The Bureau responded directly to the commenter indicating that individuals outside the state may provide comments on the IS/ND.

Comment Letter 26– Kwan Hearn

Response to Comment 26-1

The commenter indicated that they would like to apply for a license and that the process is a bit confusing.

This comment addresses the cannabis licensing program regulations and process, rather than the analysis contained in the IS/ND. However, Bureau applications for cannabis business licenses are not yet available at the time of this writing.

Comment Letter 28– Carl Johnson

Response to Comment 28-1

The commenter lives on Santa Catalina Island and is concerned about the transportation regulations that prohibit transportation of cannabis by aircraft or watercraft. The comment seeks clarification on the transportation regulations relative to the city of Avalon on Santa Catalina Island.

This comment addresses the Bureau’s regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND.

Response to Comment 28-2

The comment asks whether Santa Catalina Island was considered when crafting regulations.

This comment addresses the Bureau’s regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND. However, the Bureau takes into consideration the unique circumstances of the many local jurisdictions within California when evaluating the requirements for transportation of cannabis.

Response to Comment 28-3

The comment asks whether there are any planned changes to the transportation regulation.

This comment addresses the Bureau’s regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND. However, the Bureau’s regulations will describe the requirements for transportation of cannabis. For a summary of the anticipated regulations, see Chapter 2 of the IS/ND, *Proposed Program Description*.

Response to Comment 28-4

The comment asks whether the City of Avalon would qualify for an exemption to the transportation regulation.

This comment addresses the Bureau’s regulations and cannabis licensing generally, rather than the substantive analysis contained in the IS/ND. However, the Bureau’s regulations will describe the requirements for transportation of cannabis. For a summary of the anticipated regulations, see Chapter 2 of the IS/ND, *Proposed Program Description*.

Comment Letter 29– Gregory Turner

Response to Comment 29-1

The commenter requested to be added to the mailing list.

See Master Response 3.

Comment Letter 30– Michaela, Higher Elevation Community Collective

Response to Comment 30-1

The comment appreciates the work the Bureau has put into the regulations.

The Bureau appreciates this comment.

Response to Comment 30-2

Comment objects to the prohibition on retailers giving free samples of cannabis or cannabis products to customers.

This comment addresses the Bureau's regulations, rather than the substantive analysis contained in the IS/ND.

Response to Comment 30-3

The comment objects to the CDPH proposal to limit edibles to 100mg total THC in the product.

This comment addresses the cannabis licensing regulations generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, the Bureau is not the licensing agency responsible for licensing commercial cannabis manufacturers, and therefore this issue is outside the scope of the Bureau's regulatory authority. The Manufactured Cannabis Safety Branch, a division of CDPH, will be licensing cannabis manufacturers. While the Bureau will be issuing licenses for microbusinesses that may engage in cannabis manufacturing, such activities as part of a microbusiness license must be conducted in compliance with CDPH's regulations.

Response to Comment 30-4

The comment objects to the prohibition on infused edibles containing dairy products.

This comment addresses the cannabis licensing regulations generally, rather than the analysis of the Proposed Program contained in the IS/ND. However, the Bureau is not the licensing agency responsible for licensing commercial cannabis manufacturers, and therefore this issue is outside the scope of the Bureau's regulatory authority. The Manufactured Cannabis Safety Branch, a division of CDPH, will be licensing cannabis manufacturers. While the Bureau will be issuing licenses for microbusinesses that may engage in cannabis manufacturing, such activities as part of a microbusiness license must be conducted in compliance with CDPH's regulations.

Response to Comment 30-5

This comment reiterates comments 30-2, 30-3 and 30-4.

See Responses to Comments 30-2, 30-3 and 30-4.

Response to Comment 30-6

The comment expresses concern that if cannabis commerce is over-regulated, there will be more black-market activity.

This comment addresses the cannabis licensing regulations generally, rather than the analysis of the Proposed Program contained in the IS/ND.

Comment Letter 31– Paul Hansbury

Response to Comment 31-1

The commenter expresses that he/she was pleased with the IS/ND document, in particular the sections regarding microbusiness and police services.

The Bureau appreciates this comment.

Comment Letter 32– Robert Ketchum

Response to Comment 32-1

The comment requests clarification on regulations concerning “brokers,” and whether transport and delivery could be done using a microbusiness license or whether it would require a separate license.

This comment addresses the cannabis licensing regulations generally, rather than the analysis of the Proposed Program contained in the IS/ND. Under MAUCRSA, distributor licensees and microbusiness licensees are the only license types authorized to transport cannabis between licensees. (Bus. & Prof. Code §26070(b).) Retailers and microbusinesses are the only license types authorized to deliver cannabis or cannabis products. (Bus. & Prof. Code §26070(a).)

Comment Letter 34– Carolyn Childen

Response to Comment 34-1

The comment requests information regarding the legality of cannabis cafes, where patrons bring their own cannabis product.

This comment addresses the cannabis licensing regulations generally, rather than the analysis of the Proposed Program contained in the IS/ND. However, under MAUCRSA, a local jurisdiction may allow for the on-site consumption of cannabis at a licensed retailer or microbusiness if certain conditions are met. (Bus. & Prof. Code §26200(g).)

Response to Comment 34-2

The comment asks whether a business can have distribution, testing, and [*illegible*] as well as a café.

This comment addresses the cannabis licensing regulations generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, under MAUCRSA, vertical integration is permitted, except that a person who holds a state testing laboratory license is prohibited from holding a license for any other activity, except testing. (Bus. & Prof. Code §26053.)

Comment Letter 35– Tomer Grassiany

Response to Comment 35-1

The commenter requested to be added to the mailing list.

See Master Response 3.

Comment Letter 36– Brandon Hall

Response to Comment 36-1

The comment expresses concern about the emissions from hazardous materials from cannabis businesses near schools, nursing homes, hospitals, daycares, or youth centers. The commenter is worried that rather than setting a specific radius between a cannabis business and a school, the regulations do not adequately protect these facilities from possible emissions.

The Bureau has considered these potential impacts in the IS/ND. The IS/ND found that there was a low probability that cannabis businesses would emit hazardous materials due to compliance with other federal, state and local requirements. Additionally, in Section 4.5, *Hazards, Hazardous Materials, and Human Health*, the IS/ND states:

For commercial cannabis businesses that could operate within 0.25 mile of a school, business activities have the potential to generate hazardous emissions (refer to Impacts HAZ-1, HAZ-2, and AQ-2 for further discussion of the mechanisms and types of emissions that are possible). In addition, commercial cannabis businesses in these locations may use power equipment and gas- or diesel-powered backup generators and vehicles, which could emit air pollutants, including toxic air contaminants; however, these emissions would not be substantially different from emissions associated with other typical land uses that may occur near schools. In businesses where a large amount of cannabis may be stored, such as a large distribution facility, activities may generate odors, which may be a concern for other reasons when emitted near schools but would not be hazardous.

For these reasons, the IS/ND concluded that any potential impacts due to hazardous materials emissions in proximity to schools would be less than significant.

Comment Letter 37– Susan Tibbon

Response to Comment 37-1

The comment objects to restrictions on light trespass and noise (e.g., from generators) for very small growers in rural areas.

This comment addresses the cannabis licensing regulations generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, the Bureau is not the licensing agency responsible for commercial cannabis cultivation. CalCannabis Cultivation Licensing, a division of CDFA, will be licensing cannabis cultivators. While the Bureau will be issuing licenses for microbusinesses that may engage in cannabis cultivation, such activities as part of a microbusiness license must comply with CDFA's regulations.

Comment Letter 38– Louis Winthorpe

Response to Comment 38-1

Comment asks if there will be additional IS/ND public workshops.

See Master Response 1.

Comment Letter 39– Michael Ciccozzi, El Dorado County Counsel

Response to Comment 39-1

The comment advises that information contained in Table C-1 is incorrect with respect to county ordinances for El Dorado County. El Dorado County has prohibited medicinal cannabis distribution (retail) facilities. The comment clarifies that a very limited number of dispensaries that existed prior to the ban were allowed to continue operation.

The Bureau appreciates this information.

Response to Comment 39-2

The comment advises that information contained in Table C-1 is incorrect with respect to county ordinances for El Dorado County. El Dorado County does not authorize commercial cannabis cultivation. The county authorizes outdoor cultivation only for personal medicinal use.

The Bureau appreciates this information.

Response to Comment 39-3

The comment requests the Bureau correct the “License Types/Cultivation Amount” to state:

Commercial cannabis activities prohibited. Limited outdoor cultivation for personal medicinal use allowed. Size of outdoor cultivation area for personal medicinal use is restricted (generally limited to 200 square feet) and subject to local regulations.

The Bureau appreciates this information.

Response to Comment 39-4

The comment provides language that it requests the Bureau to include in its Table C-1, if the Bureau edits Table C-1 to include operating requirements for personal medicinal grows.

The Bureau appreciates this information.

Response to Comment 39-5

The comment notes that the chaptered number of the El Dorado County Ordinance should be included in Table C-1, which is Chapter 130.14.

The Bureau appreciates this information.

Response to Comment 39-6

The comment states that there is significant misunderstanding by the public regarding the legal status of various cannabis activities. The County wants to ensure that information from the State is correct.

The Bureau appreciates this information.

Comment Letter 40– Society of Cannabis Clinicians

Response to Comment 37-1

The comment requests that the Bureau’s regulations include required testing for terpenes and terpenoids.

See Master Response 4.

Comment Letter 41– Timothy Vertino, County of San Diego

Response to Comment 41-1

The comment asks whether the County of San Diego may submit late comments on the IS/ND, beyond the October 6 deadline.

The Bureau will consider comments submitted regarding its program in general at any time. The Bureau will also consider substantive comments regarding the IS/ND that are received prior to certification of the IS/ND; however, comments submitted after the October 6 deadline may not be addressed in this memorandum.

Comment Letter 42– Julie VanTilburg

Response to Comment 42-1

The comment objects to the finding in the IS/ND that there would be no significant impact to agriculture and forestry as a result of microbusiness cultivation under the Proposed Program.

While details have not been provided in this comment, based on the remainder of the comment letter, it appears that the concern relates to issues associated with site development, rather than cultivation itself. Site development activities are outside of the scope of the Bureau’s regulatory authority, but have been fully considered in Chapter 5, Mandatory Findings of Significance and Cumulative Considerations. Please see the responses which follow that address the specific concerns raised by the commenter.

Response to Comment 42-2

The comment requests that “haul route” must be specified in permit process when hauling heavy loads in potentially wet conditions. The comment notes that hauling loads on wet roads and watercourse crossings has a more significant impact than use of the same roads and watercourse crossings during dry conditions.

The Bureau’s IS/ND focuses solely on commercial cannabis business activities under the licensing authority of the Bureau. It does not address site development and maintenance as part of the Proposed Program, as these are outside of the Bureau’s discretionary authority. Such issues have been considered instead, as part of the cumulative impact analysis contained in Section 5.3, *Cumulative Impacts*. Site development activities for cannabis cultivation as part of a microbusiness (including issues such as winter-period use of infrastructure) would need to be addressed by local land use agencies as part of the discretionary land use permit approval processes, as well as other State agencies with jurisdiction (e.g., CDFW, the RWQCBs), including conducting additional CEQA review as necessary. Such agencies would also be responsible for ensuring that roadways are appropriately permitted in conformance with state and local standards.

Response to Comment 42-3

The comment states that the IS/ND fails to evaluate ongoing use of roads and watercourse crossings (besides for site development) with heavy loads of soil and/or water when dirt roads are wet, which could have significant negative environmental impacts to water quality and biology. The comment states that the IS/ND fails to list as an activity the year-to-year hauling of heavy loads of soil, fertilizers, and water to cultivation sites.

The Bureau considered the hauling needs for cannabis cultivation as part of microbusiness, and relied upon the CDFA PEIR in its analysis of such issues in IS/ND Section 4.8, *Transportation and Traffic*. As described in the CDFA PEIR and discussed in the IS/ND, a cannabis cultivation operation does not typically employ a large number or high density of employees or involve an unusually large number of material deliveries. Many outdoor and mixed-light cultivation sites are located in remote areas that are not subject to substantial traffic demands. In certain locations, the addition of vehicle trips from cannabis cultivation operations could contribute to adverse effects on affected roadway and intersection operations. However, given the uncertainty regarding the exact locations where licensed cannabis cultivation would occur, it is difficult to determine whether impacts exist at these locations or whether the Proposed Program may contribute to them. In addition, any person conducting cultivation activities with potential for significant impacts (including issues related to hauling of soil) would be required to perform a site-specific environmental review and identify measures to reduce, avoid, or offset these impacts prior to becoming licensed. The Bureau found that the impacts resulting from cultivation by a microbusiness would be significantly more limited than those analyzed by CDFA due to the limited size of cultivation operations in a microbusiness. For these reasons, the Bureau determined that impacts from the Proposed Program as a result of microbusiness cultivation would be less than significant.

Response to Comment 42-4

The comment suggests that the State should require that a licensed cultivator's site be considered a "project" under Forest Practice Rules. The result would be that the cumulative effects within a watershed would be evaluated, including other cultivation sites and timber harvest.

Such issues are outside of the scope of the Bureau's regulatory authority.

Response to Comment 42-5

The comment notes that the Board of Forestry and Fire Protection submitted comments to CDFA on the revised Notice of Preparation of a Draft PEIR. The comment notes that the following comments regarding winter period use of infrastructure are copied from the Board of Forestry and Fire Protection comments.

The Bureau has received the comment.

Response to Comment 42-6

The comment states that roads that are constructed, reconstructed, and maintained within privately held forested landscapes are intended for seasonal and periodic use associated with forest management activities. The comment is concerned that cannabis cultivation may result in dramatic increases in terms of time of year and volume of use along roads that were not intended to support such use. The comment is particularly concerned with use of such roadways by applicants who are "not in good standing." The comment requests that the PEIR evaluate how such use of roadways will affect wildfire and environmental impacts.

With regard to the use of roadways that are intended for seasonal and periodic use, see Response to Comment 42-2, and Response to Comment 42-3. Applicants that are "not in good standing," i.e., out of compliance with Bureau regulations or with state and local regulations, are subject to enforcement actions by regulatory and law enforcement authorities.

The comment requests that the PEIR evaluate certain wildfire and environmental impacts. CDFA is the lead agency on the PEIR and any comments on that document should be addressed to CDFA. To the extent that this comment concerns the IS/ND and the Proposed Program, the Bureau does not anticipate use of roadways having a significant impact on wildfire or other environmental impacts. The topic of environmental impacts has been addressed in the IS/ND in Section 4.7, *Public Services*, and discussed in Response to Comment 42-2, and Response to Comment 42-3.

With respect to wildfire, the Bureau has concluded that the instances of significant risk or need for new or altered fire protection facilities would be dictated by site-specific circumstances associated with individual licenses or groups of licenses, which cannot be predicted at this time, given that the Bureau has not begun accepting license applications and therefore the anticipated locations and characteristics of licensed microbusiness cultivation sites are unknown. As such, the IS/ND declines to speculate on specifically where impacts could be significant, and instead describes how these issues would be evaluated, and mitigated as appropriate. As noted above, road use and maintenance are not part of the Proposed Program, as these are outside of the Bureau's discretionary authority. Such issues have been considered instead, as part of the cumulative impact analysis contained in Section 5.3, *Cumulative Impacts*.

Response to Comment 42-7

The comment is concerned that the IS/ND does not address public services and transportation impacts such as hauling soil, fertilizer, and water to cultivation sites for cultivation activities.

See Response to Comment 42-3.

Comment Letter 43– Gene Whitehouse, United Auburn Indian Community (UAIC)

Response to Comment 43-1

The comment requests copies of archaeological reports and environmental documents for the project so that the UAIC has opportunity to comment. The comment recommends that UAIC tribal representatives observe and participate in cultural resource surveys.

At this time, the Proposed Program does not have any site-specific environmental documents or archeological reports. The analysis contained in the IS/ND was conducted at the statewide level.

At the statewide level, Section 4.0.11 of the IS/ND concluded that the Proposed Program would not have any significant impact on tribal cultural resources (TCRs). As with cultural and paleontological resources, the IS/ND found that the Proposed Program would not result in construction activities and would have very limited potential for land disturbance, and therefore would not have the potential for a substantial adverse effect on TCRs. Furthermore, the Bureau has conducted outreach to Native American tribes throughout California as part of this CEQA process and in compliance with Assembly Bill 52 (AB 52). Through the consultation activities conducted to date, the Bureau has not received any information that suggests that impacts on TCRs are a substantial concern.

For a particular project that may have environmental impacts, including site development and potential impacts on tribal cultural resources, the lead agency would need to complete a CEQA analysis. In that instance, a lead agency must notify tribes on its notice list within 14 days of a decision to undertake a project or a determination that a project application is complete. At that time, a tribe may elect to consult with the lead agency regarding the project. To the extent that the Bureau may be

acting as a lead agency, the Bureau will consult with the tribe as required by AB 52, and will also consider issues related to surveys and observation/participation by tribal representatives.

Response to Comment 43-2

The comment requests a meeting to consult on the project. The UAIC recommends that a tribal monitor be present during ground-disturbing activities.

See Response to Comment 43-1. Because no specific project is proposed at this time beyond the adoption of regulations, no site visit is possible.

Comment Letter 44– Arthur Wylene, Rural County Representatives of California (RCRC), the Urban Counties of California (UCC), and the California State Association of Counties (CSAC).

Response to Comment 44-1

The comment requests acknowledgement that it was received by the October 6 deadline.

The Bureau received this comment prior to the October 6 deadline and sent an email to the commenter acknowledging that the comment had been received.

Response to Comment 44-2

The comment states that the IS/ND should acknowledge the Bureau’s obligation to comply with CEQA when licensing individual commercial cannabis facilities, including serving as lead agency in circumstances where the local jurisdiction does not issue a discretionary permit for the facility.

As described in the IS/ND at Section 1.4, *Scope and Intent of this Document*, to the extent that there could be significant impacts from a particular commercial cannabis business activity subject to a Bureau license, additional site-specific CEQA analysis may be necessary prior to issuance of a license, and that the Bureau may serve as the lead agency in circumstances where no other public agency has discretionary approval authority over the activity.

Response to Comment 44-3

The comment states that the IS/ND should not exclude evaluation of reasonably foreseeable site development activities from the scope of the Proposed Program. The comment notes that local jurisdictions exercise primary regulatory authority over such activities. The comment further states that the Bureau has the authority to regulate and analyze the potential impacts to the extent reasonably foreseeable at the programmatic level, including reasonably foreseeable site development activities.

Due to the statewide context of the Proposed Program, the Bureau must examine impacts on a statewide level. The Bureau agrees that site development activities are reasonably foreseeable, but they are outside of the Bureau’s regulatory authority and have been appropriately considered in detail in IS/ND Section 5.3, *Cumulative Impacts*. The Bureau will further consider such issues as it evaluates license applications, which may include additional CEQA review as appropriate.

Response to Comment 44-4

The comment states that the IS/ND relies upon the Draft CalCannabis PEIR prepared by CDFG, which will require revisions in order to fully comply with CEQA. The commenter attached the comment letter that was provided to CDFG, and states that those comments apply to the corresponding

portions of the IS/ND that rely upon the CDFA PEIR, and requests that corresponding corrections be made to the IS/ND.

As noted in Response to Comment 13-3, the Bureau recognizes that CDFA has updated the text of its PEIR in response to public comments received on the Draft PEIR, as well as changes initiated by CDFA in response to the passage of MAUCRSA. The changes made to the PEIR in the Final PEIR are exactly the kind of revisions that the case law recognizes as legitimate and proper. The Bureau has reviewed and considered the analysis and the conclusions of CDFA's PEIR and determined that its analysis and conclusions present reliable facts and evidence upon which to base the Bureau's own analysis of the potential impacts of microbusiness cultivation. Before the IS/ND is adopted, the Bureau will consider the PEIR as certified by CDFA and make findings on the PEIR as a responsible agency.

With regard to the comments on the PEIR that are relevant to the IS/ND and have not otherwise been addressed in response to this comment letter, the Bureau offers the following responses:

Comment: The PEIR should include the proposed "cultivation checklist tool" that will be used to assess future commercial cannabis cultivation activities. Failure to include this tool could be problematic and expose future lead agencies relying on the EIR to litigation.

Response: CDFA's cultivation checklist has been provided as Appendix J of the Final PEIR for public review. Note that this tool will serve as guidance and does not replace or override CEQA's requirements related to evaluation of future activities to determine the extent they were previously addressed in a first-tier PEIR; as such, its contents do not have bearing on the adequacy of the PEIR or IS/ND.

Comment: CDFA's regulations could create a loophole that would allow possible circumvention of size limitations, including issues such as activities that do not count toward "canopy," and "multi-tenant" cultivation. CDFA's regulations should be revised to limit the entire operational area for each cultivation license and incorporate reasonable limitations for "multi-tenant" operations.

Response: To the extent that activities outside of the "canopy" or approval of a high-density of licenses in a particular area could cause significant impacts that were not considered in the PEIR and IS/ND, these issues would be considered during the license evaluation process, and additional CEQA documentation would be needed to disclose any new or more significant impacts compared to those considered in the IS/ND.

Comment: The PEIR incorrectly indicates that California law designates cannabis as an agricultural product for all purposes. Cannabis is only an agricultural product for the limited purposes of this particular regulatory program and, therefore, is not a Williamson Act-eligible product. Therefore, the PEIR must be revised to remove the statement that "cannabis is an agricultural product for Williamson Act purposes" and, therefore, requires further evaluation for impacts.

Response: Under Health and Safety Code Section 11362.777(a) and Business and Professions Code Section 26067(a), respectively, medicinal and adult-use cannabis are agricultural products. Thus, the statement in the PEIR in Impact AG-1 is accurate.

Comment: The PEIR should explicitly require that indoor cultivation sites receive an actual inspection for Fire Code compliance instead of merely notifying the Fire Department.

Response: The suggestion is noted. CDFA is the agency responsible for establishing requirements related to this topic.

Response to Comment 44-5

The comment states that the IS/ND's assumptions regarding the size and operating characteristics of commercial cannabis licensees should be validated through regulatory provisions limiting the scope and intensity of activities conducted upon any single licensed premises. The comment states that at the time the IS/ND was released, the governing statutes required licensed commercial cannabis premises to be "separate and distinct." The comment notes that Assembly Bill (AB) 133, effective September 16, 2017 has repealed this provision. The comment requests that the Bureau institute regulations that limit the size and operating characteristics to that which was analyzed in the IS/ND.

The comment appears to be concerned with issues resulting from co-location of commercial cannabis businesses, or multiple cannabis businesses located on the same property. While the previous version of MAUCRSA (prior to the adoption of AB 133) did not allow multiple cannabis businesses on a single premise, it did permit multiple cannabis businesses on a single parcel, provided that the businesses were kept "separate and distinct." The Bureau believes that the analysis contained in the IS/ND is not affected by the statutory revision. The analysis contained in the IS/ND took into account the possibility that multiple businesses, as well as the multiple activities allowed under a microbusinesses license, could operate on a single parcel.

Response to Comments 44-6 through 44-9

The comments are copies of comments submitted to the Bureau in response to the Bureau's proposed regulations under the MCRSA. With the passage of the MAUCRSA and repeal of the MCRSA, the Bureau decided not to proceed with its proposed MCRSA regulations. However, a summary of the public comments regarding the proposed MCRSA regulations and the Bureau's responses to those comments can be found on the Bureau's website at www.bcc.ca.gov.

Response to Comments 44-10 through 44-14

The comments are copies of comments submitted to CDFA as part of the public review process relating to CDFA's PEIR for cannabis cultivation. These comments are addressed in Response to Comment 44-4.

Comment Letter 45– Jessie Kempf

Response to Comment 45-1

The comment requests clarification on the anticipated testing laboratory regulations, specifically whether a laboratory agent who takes samples at a distributor's premises must be an employee of the laboratory. The comment requests that non-employee agents should be allowed to take samples.

This comment addresses the cannabis licensing regulations generally, rather than the analysis of the Proposed Program contained in the IS/ND. However, MAUCRSA requires that samples be taken from the distributor's premises to the testing laboratory by a testing laboratory employee (Bus. & Prof Code §26104(b)(4)).

Comment Letter 46– Kevin Chun, City of Paramount

Response to Comment 46-1

The comment expresses concern about public health and safety. Specifically, the comment is concerned about a possible risk of elevated crime rates linked to the cannabis industry. Because the majority of cannabis businesses operate solely on cash transactions, the commenter is concerned that this may result in increased criminal activity at business locations and on public streets.

The issues raised in this comment were analyzed in the IS/ND. In the *Public Services* analysis, in Section 4.7.4, the IS/ND analyzed the potential impacts of cannabis business operations on the need for increased police protection services.

An elevated risk of crime associated with cannabis business operations has been a concern noted in the literature on cannabis business operations and cultivation (California Police Chiefs Association 2009; Garmire 2009). The risk of criminal activity at cannabis businesses may be driven by several factors, including the fact that cannabis continues to be extremely valuable and, therefore, is a potential target for criminals. According to Forbes (2015), the retail price of cannabis (note that the report did not distinguish between cannabis grown for medicinal or adult use) in California is approximately \$242 per ounce, equating to \$3,872 per pound. This could translate to millions of dollars in product present at any given time at a commercial cannabis business facility. Also, currently, federally insured banks are generally unwilling to provide services to the cannabis industry. This means that cannabis-related organizations or businesses are operating primarily with cash transactions, subjecting them to an increased risk for crime compared to non-cash-based operations.

In Colorado, where cannabis was legalized in 2014 for adult use, retail stores have faced frequent robbery and burglary attempts despite requirements since 2010 to install alarms and surveillance cameras (Dokoupil and Briggs 2014). Likewise, the Police Foundation (2015) reports that burglary rates at licensed cannabis facilities in Colorado are much higher than at other retail outlets, such as liquor stores: 13 percent of Denver’s licensed cannabis facilities experienced burglaries in 2012 and 2013, compared with 2 percent of liquor stores. Research conducted for this IS/ND revealed a number of armed robberies and related crimes that have occurred at both dispensaries and cultivation operations in California and around the country (Aldax 2013; Chang 2016; Hickey and Hooley 2015; Johnson 2016; Kemp 2014; Kirschenheuter 2015; KRCC Staff 2013; Macz 2015; NBC 6 South Florida 2015; Nichols 2011; O’Neill 2015; Ray 2015; Rose 2015). It should be noted, however, that many of these incidents involved unpermitted or unregulated commercial cannabis business activities. Many of the cannabis business sites that have been targeted by criminals may not have implemented proper security measures, or may have attracted criminals simply by their unpermitted nature.

Indeed, several studies suggest that cannabis retail businesses or cannabis laws more generally do not generate crime and, in some instances, may actually reduce crime. Morris et al. (2014) evaluated the effect of medicinal cannabis laws on crime in states that have approved the use of medicinal cannabis. After controlling for a number of sociodemographic factors, the study found that medicinal cannabis laws were not predictive of higher crime rates and may be related to reductions in rates of homicide

and assault (Morris et al. 2014). Kepple and Freisthler (2012) evaluated the relationship between medicinal cannabis dispensaries and crime based on location, and found no relationship between the two. Their results suggest that measures such as surveillance cameras and private security services may act as effective deterrents to crime.

The IS/ND found that the security measures required under the Proposed Program, the increased enforcement capabilities under the Proposed Program, and the requirement to comply with local laws and ordinances may reduce pressure on local law enforcement as compared to the baseline. No information was found that would indicate that the Proposed Program would increase law enforcement needs on a statewide level.

Response to Comment 46-2

The comment suggests that the Proposed Program regulations include requirements for odor absorbing ventilation and exhaust systems.

This comment addresses the cannabis licensing regulations generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND.

As discussed in the IS/ND and in Response to Comment 13-11, research conducted in preparation of the IS/ND found that “the determination of odors as offensive or a ‘nuisance,’ particularly cannabis, is quite often subjective and based on a number of factors. For example, the Oregon judicial system found that cannabis odors can be offensive to some people and enjoyable to others (Los Angeles Times 2015).” As noted in the analysis, to the extent that a community finds that odor resulting from commercial cannabis activity is objectionable, the Bureau anticipates that the community may develop odor control requirements that correspond to their local community expectations and standards. Local jurisdictions such as cities and counties are responsible for making community based decisions regarding the regulation of odors and nuisance.

Comment Letter 47– Scott Chipman, Citizens Against Legalizing Marijuana

Response to Comment 47-1

This comment states that regulating an illicit drug is inherently impossible. This comment states that 90 percent of those growing and selling cannabis in Humboldt, Trinity, and Mendocino Counties are ignoring licensing regulations and that it is the same in every county because of limited resources.

See Response to Comment 13-2.

Response to Comment 47-2

This comment states that cultivation sites are polluting streams and forests, killing wildlife, and destroying the quality of life in our communities.

See Response to Comment 13-3.

Response to Comment 47-3

This comment states that the regulatory structure will not prevent access to cannabis by persons under 21. Commenter believes that cannabis is not medicine.

See Response to Comment 13-4.

Response to Comment 47-4

Commenter does not believe that tax revenues will pay for licensing regulations because medicinal cannabis is not taxed.

See Response to Comment 13-5.

Response to Comment 47-5

This comment states that MCRSA allows only for one peace officer to seize and destroy cannabis.

See Response to Comment 13-6.

Response to Comment 47-6

This comment states that public health and safety cannot be protected because cannabis has adverse health effects on humans.

See Response to Comment 13-7.

Response to Comment 47-7

This comment states that the State of California has not made an effort to educate the public on harms of cannabis use.

See Response to Comment 13-8.

Response to Comment 47-8

This comment states that cannabis use results in harm to human health including brain damage, psychotic breaks, mental illness, addiction, birth defects, physical harms, traffic deaths.

See Response to Comment 13-9.

Response to Comment 47-9

This comment states that allowing persons to have up to six plants in their homes for personal use will make access to cannabis easier for young people.

See Response to Comment 13-10.

Response to Comment 47-10

This comment states that cannabis cultivation sites attract crime, result in unpleasant odors, and create hazardous pesticide drift.

See Response to Comment 13-11.

Response to Comment 47-11

This comment states that California should observe federal prohibition on cannabis. Commenter does not believe that all cannabis grown in state is intended for use in California.

See Response to Comment 13-12.

Comment Letter 48– Sun Prince, Pharcyde TV

Response to Comment 48-1

The comment is concerned with the mental and psychological effects on minors being able to use medical marijuana.

The Proposed Program does not regulate the use of cannabis by minors or adults. With regard to the potential mental or psychological effects of cannabis consumption, see Response to Comment 13-7.

Response to Comment 48-2

The comment is concerned with the cigarette industry entering the commercial cannabis industry, and the potential effects on small commercial cannabis businesses.

This comment addresses cannabis licensing generally, rather than the substantive analysis contained in the IS/ND.

Response to Comment 48-3

The comment asks whether the Bureau will provide any guidelines between the state law and federal law for transportation of cannabis.

This comment addresses the Bureau’s regulations and cannabis licensing generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND. However, the Bureau’s regulations will contain requirements for the transportation of cannabis within California. For a summary of the anticipated regulations, see Chapter 2 of the IS/ND, Proposed Program Description.

Comment Letter 49– Mateo Nagassi

Response to Comment 49-1

The comment is concerned that individuals with a criminal record for drug offenses, particularly those from communities of color and underrepresented communities, have an opportunity to participate in commercial cannabis activity.

This comment addresses the Bureau’s regulations and cannabis licensing generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND.

While MAUCRSA requires licensing agencies to review the criminal conviction records of license applicants, it explicitly states that a conviction “where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license.” (Bus. & Prof. Code §26057(b)(5).)

Comment Letter 50– Karen Wilson, South Fork Trinity Up-River Friends

Response to Comment 50-1

The comment objects to the finding in the IS/ND that there would be no significant impact to agriculture and forestry as a result of microbusiness cultivation under the Proposed Program.

See Response to Comment 42-1.

Response to Comment 50-2

The comment requests that “haul route” must be specified in permit process when hauling heavy loads in potentially wet conditions. The comment notes that hauling loads on wet roads and watercourse crossings has a more significant impact than use of the same roads and watercourse crossings during dry conditions.

See Response to Comment 42-2.

Response to Comment 50-3

The comment states that the IS/ND fails to evaluate ongoing use of roads and watercourse crossings (besides for site development) with heavy loads of soil and/or water when dirt roads are wet, which could have significant negative environmental impacts to water quality and biology. The comment states that it fails to list as an activity the year-to-year hauling of heavy loads of soil, fertilizers and water to cultivation sites.

See Response to Comment 42-3.

Response to Comment 50-4

The comment suggests that the state should require that a licensed cultivator's site be considered a "project" under Forest Practice Rules. The result would be that the cumulative effects within a watershed would be evaluated, including other cultivation sites and timber harvest.

See Response to Comment 42-4.

Response to Comment 50-5

The comment notes that the Board of Forestry and Fire Protection submitted comments to CDFR on the revised Notice of Preparation of a Draft PEIR. The comment notes that the following comments regarding winter period use of infrastructure are copied from the Board of Forestry and Fire Protection comments.

See Response to Comment 42-5.

Response to Comment 50-6

The comment states that roads that are constructed, reconstructed and maintained within privately held forested landscapes are intended for seasonal and periodic use associated with forest management activities. The comment is concerned that cannabis cultivation may result in dramatic increases in terms of time of year and volume of use along roads that were not intended to support such use. The comment is particularly concerned with use of such roadways by applicants who are “not in good standing.” The comment requests that the PEIR evaluate how such use of roadways will affect wildfire and environmental impacts.

See Response to Comment 42-6.

Response to Comment 50-7

The comment is concerned that the IS/ND does not address discuss public services and transportation impacts such as hauling soil, fertilizer, and water to cultivation sites for cultivation activities.

See Response to Comment 42-3.

Response to Comment 50-8

The commenter notes that she has attached the letters she provided to CDFA on its PEIR.

While these are not comments on the IS/ND, the Bureau has reviewed these letters to determine whether they affect the IS/ND, since the IS/ND relies in part on CDFA's PEIR. As noted in Response to Comment 13-3 above, the Bureau recognizes that CDFA has updated the text of its PEIR in response to public comments received on the Draft PEIR, as well as changes initiated by CDFA in response to the passage of MAUCRSA. Here, the changes made to the PEIR in the Final PEIR are exactly the kind of revisions that the case law recognizes as legitimate and proper. The Bureau has reviewed these changes in addition to the specific letters provided by the commenter and has determined that neither the changes nor these letters affect the analysis or conclusions of the IS/ND.

Response to Comment 50-9

The comment states that information on the North Coast-Klamath Region is incorrect and should be corrected.

In response, the referenced information on ecoregions is taken from *California Wildlife: Conservation Challenges* (Bunn et al. 2007), which is considered an accurate and widely accepted source. Regardless, the changes requested would not change the IS/ND's impact analysis or conclusions.

Regarding the description of stressors on the North Coast-Klamath Region, please refer to the source of information identified in Response to Comment 50-8. The Bureau acknowledges that illegal cannabis cultivation is also a stressor in the region.

Response to Comment 50-10

The comment also requests updates to the discussion regarding the California Department of Forestry and Fire Protection (CALFIRE), State Responsibility Areas (SRAs), and winter period use.

See Response to Comment 42-5.

Response to Comment 50-11

The comment identifies law enforcement needs related to cannabis cultivation and asks how enforcement will be improved.

This comment addresses the cannabis industry generally, rather than the substantive analysis of the Proposed Program contained in the IS/ND. The commenter's concern regarding enforcement is acknowledged. The IS/ND discussed impacts to law enforcement services in Section 4.7, *Public Services*. The IS/ND found that "[u]nder the Proposed Program, it is reasonable to assume that some of the cannabis business operators not currently operating in compliance with local requirements would become lawful businesses, reducing the enforcement needs for these operations." In addition,

MAUCRSA contains multiple provisions for additional enforcement of cannabis laws in California. (See, e.g., Bus. & Prof. Code §§ 26180, 26202; Health & Saf. Code §§ 11361.71(2), 11362.81; Rev. & Tax. Code § 34019; Wat. Code § 13276(b).)

CONCLUSIONS

The comments received do not affect the IS/ND's conclusions that the Proposed Program would not have any significant effects on the environment. With the clarifications provided above, no changes to, or recirculation of, the IS/ND are necessary.

ATTACHMENT A

Substantive Comments Received on the IS/ND

ATTACHMENT B

Non-Substantive or Unrelated Comments Received During Public Review Period