**Use of Flavoring in Cannabis Products: A summary of key issues**

Overall extensive experience from other industries, most notably tobacco, and emerging cannabis data, show that the addition of flavors to products can increase overall consumption, and is especially appealing to teens and youth at least through age 24, the period when initiating cannabis use holds the greatest hazards for the developing brain, academic achievement and psychosis development. Because of this, the federal Tobacco Control Act includes a “Special Rule for Cigarettes,” which prohibits cigarettes from containing characterizing flavors other than tobacco or menthol (section 907(a)(1)(A)). The statute also authorized the FDA to issue additional product standards, including to address flavors in tobacco products (see section 907(a)(3)). In 2018 the FDA reviewed the literature and issued an Advanced Notice of Proposed Rulemaking on regulation of other flavored tobacco products, including vapes. Most of the same issues identified apply to cannabis products. During cannabis regulation development in California, several health organizations submitted comments to CDPH, based on this extensive evidence, requesting that flavored products not be permitted. The comments were not adopted, despite the CDPH’s strong leadership on ending flavored tobacco, and recognition that vaping, often driven by flavored products, doubled for both cannabis and tobacco between 2017 and 2018 alone. An additional issue with cannabis products is the extensive use of marketing tools and naming that implies flavors even when not present (e.g., “Girl Scout Cookie”). In August 2020, the California State Legislature passed SB 793, banning flavored tobacco products, with enthusiastic support of Governor Newsom, who stated “This is Big Tobacco’s latest attempt to profit at the expense of our children. California will continue to fight back and protect our children…..” As we have done for tobacco products, it is now time to put the public health guardrails in place that were not prioritized in initial regulations, and take the same precautions for cannabis to protect teens and youth. The FDA, CDC and the Surgeon General noted several key areas of concern:

**Increases in cannabis use and in vaping are highest in young adults and are likely driven by flavors**

- A [2016 report from the Surgeon General](https://www.cdc.gov/tobacco/data_statistics/sgr/2016/index.htm) states that youth are more likely than adults to choose flavored cigarettes, which led to Congress banning characterizing flavors for cigarettes in the Tobacco Control Act.1
- Among those aged 12 or older, past-year marijuana use increased 59% from 25.8 million in 2002 to 48.2 million in 2019, and the number of past-year initiates of marijuana use increased from 2.2 million to 3.5 million in the same period.1 In the Monitoring the Future study, daily or near daily marijuana use among respondents aged 19-28 reached 8.0% in 2018, the highest level ever observed since tracking began over 30 years ago, and over three times the 1992 level.4 Vaping of THC doubled in a single year 2017-2018, with large increases both in young adults and teens. In the National Survey on Drug Use and Health (NSDUH) in 2019, among US young adults (18-25 yrs old), 35.4% were past-year users of cannabis and 5.8% had a cannabis use disorder (CUD).3

**The appeal of flavors: Supporting Evidence: Flavored inhalable products increase youth initiation and use**

- Studies indicate that youth and young adults who have ever used e-cigs begin their use with sweet flavors rather than tobacco flavors, and 81.5% of current youth e-cig users said they used e-cigs “because they come in flavors I like.”5
- A 2018 FDA advance notice of proposed rulemaking: “*Regulation of Flavors in Tobacco Products*” notes that a robust body of literature in food consumer science demonstrates that flavors impact preferences, drive food selection and vary across age groups.8,9 The FDA identifies studies that have shown adding sweet flavors to cigarettes increases the appeal of these products to youth.10-13 and tobacco industry documents show that food flavors, such as fruit and candy, were used to attract new users, primarily youth. Flavors in food and tobacco products can trigger reward pathways in the brain and influence decision-making.6,14,15 Laboratory research has confirmed that tobacco products contain flavor chemicals at the same level per serving as defined by the studies, or higher than, popular candy and drink products.16,17 Youth who perceive less health risk from using tobacco products are more likely to initiate use, and findings from studies assessing harm perceptions of tobacco product risks show that each age group, including youth, perceived flavored tobacco products as less harmful than unflavored products.18,19
- In 2019, [Stanford University researchers](https://www.stanford.edu/) surveyed 225 California youths and concluded that youth believe ads for flavored e-liquids target individuals about their age, not older adults.20
- A [2018 Surgeon General advisory document](https://www.cdc.gov/tobacco/data_statistics/sgr/2018/index.htm) states that e-cig use has increased among high school students (from 11.7% in 2017 to 20.8% in 2018), e-cigs made in kid-friendly flavors are more appealing to young people, and more than 3.6 million U.S. youth were using e-cigs in 2018. In 2016, 1/3rd of middle and high school e-cig users had used cannabis in an e-cig.21
- Among youth (12–17 years) who participated in the Population Assessment of Tobacco and Health (PATH) Study in 2013–2014, 88.7% percent of youth who have ever used (i.e., ever tried even one or two times) waterpipe tobacco, 81 % of e-cig users ever-users, and 65.4% of cigar ever-users reported that the first product they used in these categories was flavored.8,22 Similarly, 79.8 percent of youth who reported being current tobacco product users in the PATH Study reported using a flavored tobacco product in the past 30 days.22
- 2017 Monitoring the Future data show that among 8th, 10th, and 12th grade students, 60 percent of current little cigar users reported using flavored little cigars.23
- Moreover, both youth and young adults identified flavors as a major reason for their e-cigarette use.5,22,24 In addition, youth consistently reported product flavoring as a reason for using waterpipes, cigars, and smokeless tobacco (including snus products).5,22
- Of Connecticut high school students who used tobacco 43.8% cited the availability of appealing flavors as a top driver of experimentation.25
**Flavors and progression to regular use**

- PATH Study data, indicated that 81 percent of youth (12–17 years of age) and 86 percent of young adult (18–24 years of age) ever tobacco users reported that the first tobacco product they used was flavored, compared to 54 percent of adults aged 25 years and older. Youth ever tobacco users who reported their first tobacco product was flavored had a 13 percent higher prevalence of current tobacco product use compared to youth whose first product was not flavored. Adult ever users reporting that the first tobacco product they used was flavored had a 32 percent higher prevalence of current established tobacco product use.

**Flavors may contain or form toxic compounds and are not proven safe for inhalation**

- 2018 FDA advance notice of proposed rulemaking “Regulation of Flavors in Tobacco Products” explains that substances may be authorized as a food additive or considered “generally recognized as safe” (GRAS) for use in food, but that does not mean they are safe when used in inhaled tobacco products. Research has identified the toxicity of ingredients in tobacco product flavorings, specifically the chemicals formed when they are heated. There is evidence showing a link between repeated inhalation exposures to flavor ingredients and adverse respiratory health outcomes in humans. Inhalation exposure can have different effects from oral exposure because: 1) The respiratory tract is more sensitive than the gastrointestinal tract, and 2) After oral ingestion, a substance can be detoxified through “first-pass metabolism” in the liver before reaching systemic circulation, but substances introduced into the body via inhalation go directly into systemic circulation before detoxification.
- In 2019, researchers from Yale University found that chemical reactions occur between flavoring chemicals and propylene glycol, both common constituents in cannabis-containing vaporizer products, which result in harmful byproducts.
- A 2017 publication from Portland State University researchers states that the heavy focus on terpenes as additives in the cannabis industry is of great concern due to the oxidation of terpenes when heated, which also has significant implications for flavored e-cig products due to the extensive use of terpenes as flavorings.

**Summary**

In summary, there is substantial evidence that the addition of flavors, especially to products for inhalation or combustion, is a proven route to increase youth experimentation, initiation, use and progression to regular use. It may also have concrete adverse effects on the respiratory system. Allowing these products to be marketed undermines the express intent of Prop 64 to prioritize protection of public health and safety and should be remedied.

**Reference List**

3. Substance Abuse and Mental Health Services Administration (SAMHSA). Key Substance Use and Mental Health Indicators in the United States: Results from the 2019 National Survey on Drug Use and Health. Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration; 2020. [https://www.samhsa.gov/data/](https://www.samhsa.gov/data/)
Cannabis Nursery Call to Action

Greetings from Highline Nursery,

During annual CDFA & METRC compliance review it has come to our attention that some of the cultivation based regulations that are in place are a significant hindrance to efficient operations of commercial nurseries. These regulations are structured for cultivation and do not take into account the needs of a nursery operations, we specifically seek modification to the following:

§ 8403 (b) The UID shall accompany the cannabis products through all phases of the growing cycle, as follows:

(1) Licensees with immature plants shall assign a UID to each established lot respectively. The lot UID shall be placed in a position so it is visible and within clear view of an individual standing next to the immature lot to which the UID was assigned, and all UIDs shall be kept free from dirt and debris. For the purposes of this subsection, each lot of immature plants shall be uniform in strain or cultivar and shall not have more than one hundred (100) immature plants at any one time. All immature plants in a lot shall be labeled with the corresponding UID number assigned to the lot and shall be contiguous to one another to facilitate identification by the department.

As commercial cannabis nurseries, inventory is in stock for only a brief time and is in large quantities. The time and physical waste involved in individual labels for this type of inventory is unnecessary and wasteful. Highline Nursery complies with licensing and track and trace requirements, though we are seeking this change to be made. We have also received encouragement to do so from the track and trace inspection team at the CDFA. A change to these regulations would make compliant cannabis production more efficient and put less plastic waste into the environment.

-- Please see our request for change to the above regulations.
To Whom it May Concern,

We are writing today with the request that current regulations be modified to better suit both the requirements of the Track-and-Trace Program (METRC) and California cannabis nurseries. Currently in California, cannabis nursery operations are under the same regulation requirements with other cannabis cultivation operations. While this makes sense in certain aspects of daily operation, these requirements in terms of large-scale cannabis nursery operations set forth within the Track-and-Trace system do not when pertaining to small immature plants (clones).

According to the California Code of Regulations Title 3. Food and Agriculture Division 8. Cannabis Cultivation Chapter 1. Cannabis Cultivation Program:

§ 8403 (b) The UID shall accompany the cannabis products through all phases of the growing cycle, as follows:

(1) Licensees with immature plants shall assign a UID to each established lot respectively. The lot UID shall be placed in a position so it is visible and within clear view of an individual standing next to the immature lot to which the UID was assigned, and all UIDs shall be kept free from dirt and debris. For the purposes of this subsection, each lot of immature plants shall be uniform in strain or cultivar and shall not have more than one hundred (100) immature plants at any one time. All immature plants in a lot shall be labeled with the corresponding UID number assigned to the lot and shall be contiguous to one another to facilitate identification by the department.
As a licensed cannabis nursery in California, our facility operates with strictly immature plants in form of mother plants (rooted immature plants in a constant vegetative state), clones (cuts from mother plants beginning the vegetative process), and teens (clones transplanted in early vegetative state). We seek legislative changes in the labeling requirements for cannabis nursery inventory. Specifically, in the Track-and-Trace labeling requirement for clone inventory. As stated in the above regulation, each lot of 100 immature plants share a UID within the Track-and-Trace system (METRC). These plants are freshly cut off mother plants, often presold, and only held in nursery inventory until roots are formed. Once each clone is rooted, it is shipped out of our facility to the customer.

The specific modification of current regulations we seek is in the individually labeling of each clone. For large scale cannabis nurseries, individual labeling of 30,000+ clones each week that are only in our inventory for 10-12 days is not a feasible or sustainable practice in the long term. The amount of labor hours and plastic waste involved with this requirement for wholesale cannabis nurseries is supererogatory. We feel that we can still be compliant with California cannabis cultivation Track-and-Trace standards by continuing to label each lot of 100 clones with one METRC UID, keeping them in trays of 50 count each where they cannot be separated from the designated lot. As an added clarification, the trays are solid plastic units that cannot be separated, with a footprint of approximately 12” x 24”.

We strongly urge this change in regulation to move forth for Licensed California Cannabis Nurseries. The time has come for a more nursery specific scope of regulation and requirements as daily operations in cannabis nursery cultivation vary heavily from daily operations in cannabis farm cultivation.

We thank you for your time and consideration on solving this matter and look forward to an acceptable, efficient, and conscientious solution to this issue.

Sincerely,

Joshua P Monschke

DRP Kamino, LLC - DBA Highline Nursery

kaminocomp@humboldthighline.com
Dear Cannabis Advisory Committee (CAC) Members,

We are pleased to see that the CDFA will hold a presentation on the Metrc API performance enhancements and future goals at the October 30, 2020 meeting (Agenda Item 4). For your review, we have enclosed a copy of a Metrc API Review Request letter that was sent to CDFA in August 2020, highlighting an industry-wide concern with the Metrc API reliability and lack of system-wide performance that third-party integrators have consistently experienced.

Since April 2020, a consortium of 10+ third-party integrators provides CDFA with consolidated monthly reports of the Metrc API performance issues, which demonstrate many periods in which the Metrc system cannot be utilized by operators and their inventory management software platforms that they rely on. Those reports are available for review here.

We would like to acknowledge that, since the letter was received, CDFA has authorized Metrc program managers to hold several meetings with a few third-party integrators as a means to discuss Metrc’s recent technical solutions to the performance issues we have reported. We are also pleased that CDFA has coordinated a meeting this month with a few stakeholder representatives on the Metrc API Review Request letter. The state’s top software development teams continue to offer technical insight regarding the current Metrc performance issues, and want to work collaboratively with CDFA and Metrc both at the table. We are hopeful that an integrator focus group will be established this year, and that we can tackle some of the requests in the enclosed letter.

We are providing CAC members with a copy of the Metrc API Review Request letter and access to our 2020 Metrc API performance reports as a means to provide a comprehensive picture of the Metrc issues that we continue to experience, and to highlight the urgency of resolving those issues, as it consistently collapses operations for all licensees using software tools to manage their inventory.

Sincerely,

Jennifer Gallerani
Blackbird, Director of Compliance California Distributors Association, Board Member/Chair of Track-and-Trace Committee
August 14, 2020

Richard Parrott
Director, CalCannabis
Via email: Parrott, Richard@CDFA

Dear Director Parrott,

In an effort to inform the state of perceived performance issues in the California Cannabis Track-and-Trace (CCTT) System, approved third-party integrators have directly provided you monthly reports on the Metrc API reliability since April 2020. Our reports have reflected an overall API availability ranging between approximately 92 and 98 percent (all endpoints). This level of API availability does not meet the service level agreements established in the current Standard Agreement between California Department of Food and Agriculture (CDFA) and Franwell, Inc. (Contract #17-0080); and does not meet mandated provisions under the California Business And Professions Code, DIVISION 10. Cannabis, Section 26068 (b) and (c).

The performance issues experienced from the Metrc API reliability are burdensome to the entire legal cannabis industry because it causes third-party inventory management applications to collapse, thus requiring operators to duplicate and/or correct entries directly into the CCTT System. This amounts to countless hours lost and perpetuates inaccuracies of the data going into the CCTT System.

In response to a formal public records request, we have received a copy of the CA Monthly Report Data Requirements CCTT System reports that Metrc provided CDFA for January through April 2020. Some of the months’ reporting information was incomplete and/or the text was jumbled/corrupted. Based on the information we could decipher, we are concerned with the accuracy of the results reflected in Metrc’s self-reported performance logs, as they indicate a 99.9 percent uptime in the system’s API. The deviations between the experienced API reliability for third-party integrators and the reported uptime from Metrc must be evaluated closely, as it threatens the accuracy and intent of the CCTT System altogether.

At this time, we request that CDFA establish a focus group that includes the CDFA CCTT Technical Lead; Metrc CA Program managers and lead engineer staff; and representatives from established third-party integrators. The immediate tasks needed from the focus group include:

1. **Initiate an independent focused review of the Metrc API performance reports to determine the source of the deviations in what integrators are experiencing and what Metrc is reporting.** The intention will be for all parties to understand how Metrc calculated the 99.9 percent API uptime for the 2020 reporting period, and if it’s applicable to the Metrc outages we are experiencing.

2. **Develop and conduct a detailed review of the last five Metrc outages experienced and reported to CDFA by third-party integrators.** The intention will be to establish transparency around why the last series of outages
occurred, and then determine if the causes can be reduced and/or avoided through Metrc improvements or the planned API call limits.

3. **Establish a monthly Metrc performance report that is shared with third-party integrators.** The API uptime reports we have received through public records were incomplete and not reflective of the outages we are experiencing. In order to improve transparency on Metrc performance, a clear methodology to Metrc’s monthly reporting needs to be established; with clear direction on what an improvement plan would look like, should deficiencies be identified by the detailed reviews.

We would like to continue to work with CDFA and Metrc on the issues we are experiencing with the API reliability, highlight potential sources of performance issues, and provide support wherever needed.

We are appreciative of the recent independent calls from Metrc managers, and future summits; and will be at the table whenever feasible. However, these initiatives established by Metrc do not represent the independent focus group we think is needed to improve the API issues we are experiencing. It is imperative that the CDFA CCTT technical teams attend these same meetings, as we expect that contract obligations are not being met. If deficiencies exist, CDFA needs to be made aware and work with Metrc toward resolution. Because contract obligations are directly between CDFA and Metrc, third-party integrators feel that the industry has little influence on how CCTT improvements and system updates are made. The outcome is reactionary instead of responsive. We hope to change this through the establishment of the independent focus group.

Third-party integrators will be copying CDFA on our independent feedback to the Metrc API program leaders, specifically regarding the latest API Bulletin 70. Our collective feedback is that, while we feel API call limits are not uncommon, it is not the solution to the source of the API performance issues we have been experiencing.

We look forward to continuing this conversation with you. Coordination of our consolidated monthly reporting and API performance feedback will continue to be led by Jennifer Gallerani via email jennifer.g@myblackbird.com.

Sincerely,

**A consortium of the following businesses and cannabis associations:**

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*cc: Chris Cox, Project Director, CalCannabis IT Systems  
Lori Ajax, Chief, Bureau of Cannabis Control  
Miren Klein, Assistant Deputy Director, Manufactured Cannabis Safety Branch*
Hi Kaila,

We would like to submit the following public comment / question for the Advisory Committee Meeting this Friday, October 30th:

We are interested in reducing our paper use for to curb waste, limit physical touch points during covid, and eliminate security risks created by large quantities of physical paper storage. Particularly given the increasingly stringent and overlapping COA requirements within METRC, we are hoping for clarification around what we can store and share digitally versus what we need to keep physical copies of.

Specifically, we are inquiring about the compliance of removing paper copies from our process and exclusively using electronic storage and sharing of documents for the documents below:

- COAs
- Order manifests
- METRC manifests

Note that in the proposed scenario, we would still share all documents with partners according to the guidelines laid out in the regulations laid out by the BCC, albeit digitally. Please instruct which documents, if any, must be printed in hard copies and, if possible, detail why hard copies are required.

Thank you!

--

Ali Lepech
Chief of Staff
M: 678.435.1320
E: ali@nabis.com
October 27, 2020

Jeffrey P. Ferro
Chair, Cannabis Advisory Committee
Bureau of Cannabis Control
2920 Kilgore Road
Rancho Cordova, CA 95670

Dear Chairman Ferro:

The California Cannabis Industry Association (CCIA) is pleased to present you with written comments and recommendations pertaining to agenda items under consideration by the Cannabis Advisory Committee (CAC) at its upcoming meeting on October 30.

These comments are also included in a report, prepared by CCIA in August, aimed at improving the State’s licensing and regulatory framework for cannabis. The full report can be accessed here.

We believe these recommendations will improve the State’s cannabis framework by reducing excessively high operational costs for licensees and barriers to entry for those operators seeking to participate in the legal cannabis marketplace.

We hope you will take the time to consider our comments and are available to answer any questions you may have.

Thank you for your consideration.

Sincerely,

LINDSAY ROBINSON
Executive Director
**Agenda Item #3.** Presentation on Recommendations Related to Addressing the Challenges and Opportunities to Maintaining, Expanding, and Supporting a Diverse, Equitable, and Inclusive Legal Regulated Cannabis Marketplace for Communities, Consumers, Workers, and Owners

**Recommendation 1.** Expedite the implementation of [SB 595 (Bradford - 2019)](https://leginfo.legislature.ca.gov/faces/billtext.xhtml?bill_id=20192020/ab0059%20af), which requires the State licensing authorities to establish and implement a program to provide application and license fee waivers and deferrals for needs-based applicants and licensees by January 1, 2021. As of this writing, the licensing authorities have yet to establish such a program.

Moreover, in the absence of standardized guidelines, local jurisdictions have differed in their implementation of needs-based waivers and deferrals at the local level. Alongside implementing SB 595 provisions quickly, CCIA recommends that the licensing authorities establish guidelines for local jurisdictions to implement local fee deferral and waiver programs.

**Recommendation 2.** Preserve and expand the BCC’s Equity-Local Liaison Support Unit through the consolidation process, which provides a vital direct contact for local equity operators and applicants to contact the State and navigate the complexities of cannabis licensure. CCIA strongly believes that maintaining this program after agency consolidation is vital to meeting the State’s social equity goals for the cannabis industry.

**Recommendation 3.** Prioritize appointing a social equity representative to the CAC. Since the loss of Committee member Sweeney, there has been inadequate representation on the CAC that offers a specific equity-focused perspective. A member of the CAC who is a social equity licensee, or an advocate representing social equity licensees, will provide an essential pathway for equity stakeholder engagement and ensure the perspective of equity cannabis operators is accounted for in future discussions and recommendations.

**Agenda Item #4.** Presentation on Metrc Track-and-Trace System: Metrc 2020 System Enhancements and the Future of the California Cannabis Track-and-Trace (CCTT) API for Third Party Integrators

**Recommendation 1.** Convene a METRC-specific working group or subcommittee within the CAC. Considering the wide variety of issues related to METRC, establishing a working group or subcommittee will provide current and ongoing feedback on important operational challenges related to the METRC track-and-trace system, as well as provide findings to the wider Committee for potential future recommendations.
Recommendation 2. Modify the existing process for licensees to obtain plant and package tags in a manner that better takes into account the operational decisions of that licensee. Please see Item 29 of CCIA’s regulatory document for more information.

Agenda Item #5. Discussion and Possible Action on Recommendations Related to Permissible Ingredients for Inhaled Cannabis Products

Recommendation: It is essential that any regulatory action related to the permission or restriction of specific ingredients in inhaled cannabis products be derived from fact-based, objective, scientifically verified information. For example, in 2019 the CAC recommended that the Department of Public Health provide toxicological data from the CDC related to vape additives and batteries; however, that data has yet to be provided. Before this body recommends any action around permissible ingredients, this data and other relevant reports must be reviewed and considered.

Moreover, it is imperative that the definition of “inhalable products” capture all forms of Cannabis spp. and Cannabis spp. products, and that all Cannabis spp. derivatives be considered permissible ingredients in said products. The unique and complex nature of cannabis necessitates thoughtful consideration when determining permissible ingredients.

Agenda Item #6. Discussion and Possible Action on Recommendations Related to Impacts of High-THC Consumption Research

Recommendation: It is important that any research or report done on the physiological effects of cannabis be broad in its approach and wide-reaching in its sources. Considering the severe lack of peer-reviewed, objective research related to high-THC cannabis products, particularly in the United States, CCIA urges the CAC to make a recommendation that accounts for the breadth of International studies and scientific literature on high-THC cannabis products, and base any report and recommendations on the full range of scientific data available.

Agenda Item #7. Discussion and Possible Action Regarding Annual Report

Recommendation: The CAC’s 2018 and 2019 annual reports included a “Global Issues” section intended to “highlight the overarching concerns of the CAC for the licensing authorities” that were not necessarily addressed in the reports’ recommendations, or that required legislative authority to reform (CAC 2019
Annual Report, pg. 15). Considering the truncated committee schedule this year, and that a majority of recommendations in 2020 relate specifically to regulatory agency consolidation, CCIA insists that the Global Issues section be preserved in the 2020 Annual Report. In doing so, the CAC will capture the wide array of outstanding issues still affecting the cannabis industry in California, such as a lack of market access, excessive taxation, and social equity.

**Agenda Item #8. Discussion and Possible Action on Items to Include on Future Meeting Agendas**

**Recommendations:** We request the following topics be considered as agenda items for discussion and possible action in a future meeting:

a. Market Expansion and Local Access
b. Tax Reform
c. Provisional License Program Extension
d. CEQA & Other Land-Use Related Issues
e. Duplicative Licensing Requirements
f. Manufacture & Retail Sale of Hemp

**Agenda Item #9. Public Comment on Items Not on the Agenda**

**Recommendation:** As the CAC considers internal structural reforms before reconvening in 2021, CCIA recommends that it clarify its member selection process and operational procedures to promote greater transparency. Moreover, CCIA requests the stakeholder engagement process established in 2020 - i.e. the process of allowing a public forum for debate and comment around CAC recommendations prior to reporting them to agencies - be codified, as seen in similar bodies like the Department of Fish and Wildlife.
Flow Cannabis Co, the recently created parent company of Flow Kana, offers brands and services to a growing list of supply chain partners who share our values and vision of building a sustainable and inclusive cannabis industry. To that end, the company holds distribution, processing, and manufacturing licenses by each of the three licensing agencies and has been licensed for cannabis operations since January 1, 2018. We participated in the Emergency Regulatory process in 2018, both of the previous 2020 Advisory Committee public meetings, and today we respectfully submit the following comments to the CAC before the October 30, 2020 meeting.

We remind the CAC that the State of California is in a transition period between the grey market encouraged by Proposition 215, and a global cannabis market valued in the $100s of billions in the years ahead. Flow Cannabis Co. is pleased to participate in this dialogue about regulatory changes and appreciates the cannabis regulators willingness to engage stakeholders. These comments address a few of the agenda items most important to our company and the craft farmers we work with. However, we also take this opportunity to offer bigger picture feedback on the state of the California cannabis landscape in the hopes that future meetings of the Cannabis Advisory Committee may include these topics.

**THOUGHTS ABOUT ATTENTION TO PUBLIC HEALTH AND SAFETY BY THE CAC:**

There have been many discussions by committee members this year that focus on ensuring the best outcomes regarding public health and safety for California’s regulated cannabis industry. We applaud the focus on public health and safety, but strongly encourage committee members who claim an interest in maximizing public health and safety to redirect their attention to the real source of negative public health and safety outcomes - the unregulated market.

We remind committee members that approximately $\frac{3}{4}$ of all cannabis sales in the state occur in the unregulated market. Well over half a billion dollars are spent on the unregulated market monthly in California. These are products that may have dangerous ingredients, unsafe levels of pesticides, or damaging environmental effluents leaching into our clean water sources. Where

\[1\]

This is not to say that all unregulated businesses are bad actors. Afterall, in an environment where licensing is limited to only a few, there are many good actors left from the Prop. 215 days who are in jurisdictions who are afraid to embrace a legal cannabis regime. The comments made about the unregulated market are directed at the operators who lack accountability and are unconcerned about the age, health, or product experience of patients and consumers.
is the CAC’s concern with these actors or outcomes? Prop. 64 was approved by the people specifically to reduce the risks to public health and safety by creation of a reasonably regulated market that could be managed to avoid negative outcomes. However, as a state we cannot carry out the will of the people unless the regulated cannabis market is larger and offers a better value proposition than the unregulated market.

FCC supports a diverse set of expertise within the CAC to advise the state on important regulatory issues. We commit to engage in those discussions thoughtfully and in support of public health and safety. At the same time, we expect that all members of the CAC commit to supporting the growth of the legal cannabis market and attrition of the unregulated market.

**EXTEND PROVISIONAL LICENSES AND CEQA COMPLIANCE TO AVOID AN EXTINCTION EVENT**

In consideration of creating stability and strengthening the regulated market let us seek to avoid any further “extinction events” as experienced over the past 2 ½ years. Specifically, let us avoid another extinction event of cultivators. 85% of current cultivation licensees hold a provisional license and the authority to extend provisional licenses ends December 31, 2021. At this time there is no clear path to get them all into annual licenses partly due to local governments who are struggling to comply with the unique application of CEQA requirements for cannabis cultivation.

This challenge is complicated and will take time to solve. The state should extend the Provisional license program by 2 years, until the end of 2023 to allow space to address the City and County-specific issues. We do not seek an indefinite extension or suspension of California’s strong environmental standards, but underfunded local governments and cash-strapped small businesses need more time to come into compliance. Further, large extinction events disproportionately affect small and minority owned businesses that do not have access to capital or necessary expertise. Bottom line: when an extinction event is identified and anticipated - it should be avoided.

**Regarding the Agenda for October 30, we offer the following comments:**

**DIVERSE, EQUITABLE, AND INCLUSIVE LEGAL REGULATED CANNABIS MARKETPLACE**

At the beginning of 2020 it was already obvious that the majority of cannabis license holders in California were white. Despite the good intentions of state funding for Social Equity programs,
and the programs and requirements implemented by some local jurisdictions this industry does not represent the diversity of California or offer equivalent opportunity to those who were harmed by the war on drugs. At every CAC meeting in 2020 there have been calls for attention to this imbalance such that it has been placed on the agenda for October 30th. We stress the importance of outcomes over optics when the Advisory Committee discusses this item.

METRC SYSTEM ENHANCEMENTS AND THE FUTURE OF TRACK AND TRACE IN CALIFORNIA

METRC is a necessary part of California’s cannabis industry. FCC is committed to ensuring that our operations comply with METRC. Yet, it has challenges. One challenging element is that compliance is required, but transparent governance and a clear path to provide feedback murky. Sometimes we must choose whether to expend effort to comply even when METRC bulletins slow down our business operations, or instead organize a coalition to get the attention of the state to address the issue.

To improve the Track and Trace system in California we recommend the following:

● The state must demand continuous improvement in how the program works for licensees. California is a state with muscle - the largest cannabis market in the world. For the opportunity to serve this market METRC must commit to work with the Regulatory agencies to improve the functionality of the program. After all, if California can demand low-carbon gasoline from oil companies, and can require more fuel-efficient auto fleets from the auto makers, certainly it can flex its muscle with a product-tracking company.

● Support creation of a Track and Trace “Focus Group” made up of representatives from the major trade associations in the state. This Focus Group would be a conduit for feedback between the licensed community and those who oversee implementation of METRC in California. They could offer feedback to the state on draft METRC operational changes prior to being issued in a Bulletin notice, as well as an industry voice regarding common challenges and concerns faced by the industry.

● It's great that the state purchases package tags, but many licensees have found the amount of tags limiting to the way they would prefer to operate. Instead, offer a fixed and transparent number of tags to licensees and allow them to purchase unlimited package tags if they desire. By doing so, licensees who desire to innovate the way they organize their inventory can maintain compliance while differentiating service within the supply chain. Most other states allow their cannabis licensees to purchase their own package tags.

● In Sec. 5050(b) the BCC effectively prohibits Distribution licensees from transporting, receiving, or delivering any cannabis goods during any loss of connectivity with the
METRC track and trace system. Loss of connectivity could occur for any number of legitimate and unforeseen circumstances, including recently instituted PG&E Public Safety Power Shutoffs and any technical difficulty METRC will inevitably experience. In an industry of unknowns, one constant is that all technology providers experience technical difficulties. To halt the transportation of consumer goods due to technical difficulties demonstrates a complete lack of imagination of a far less burdensome and reasonable alternative: a manual paper manifest.

PERMISSIBLE INGREDIENTS FOR INHALED CANNABIS PRODUCTS
The EVALI vaping crisis that befell the nation in the fall of 2019 was at first mysterious. In time vitamin E acetate and propylene glycol, (FDA-approved food additives) were found to be harmful to lung tissue when inhaled in a vaporized form. Some states like Washington banned the use of vitamin E in vapes as a result.

If scientific evidence concludes that vitamin E acetate or other fillers are harmful to the health of most users they should be banned and tested for. That is the strength of the regulated market - science can have an impact on finished products to manage for good outcomes.

FCC can offer support for the proposal to limit ingredients in cannabis vapes to cannabis oil and botanically derived terpenes. This support assumes that the Advisory Council members recognize that bans, barriers, and business limitations only apply to the regulated market and that the state as a whole must be committed to continually growing the percentage share of the regulated market. Without that implicit agreement we are only setting the regulated market up to fail.

RESEARCH INTO THE IMPACTS OF HIGH-THC CONSUMPTION
Flow Cannabis Co. appreciates Dr. Cermak’s attention to public health. Public health is one of the justifications of a regulated market, and the health outcomes within the regulated market should be better than the status quo. Currently, the status quo in California is the unregulated market where the vast majority of cannabis and cannabis products are produced and sold.

High-THC cannabis products are an interesting topic to study and thanks to funding at the state level, more research should be done. FCC can support research into the impacts of high-THC consumption, and would like to recommend additional research too. First however, let’s all be reminded that human culture has used high-THC manufactured products for hundreds of years.
This is called hash and it has a documented history back before Europeans were in North America. Hash can be quite strong - well over 50% THC and hash oil as strong as 90%.

FCC would like to propose that the state fund research exploring public health outcomes resulting from most of the cannabis market in California being unregulated. This study should pay special attention to the dynamic of the regulated cannabis market competing with the larger unregulated market, and determine what types of regulatory reform would provide the most advantage to expanding the legal market. After all, the greatest public health improvement regarding the $10 billion dollar cannabis industry in California would be to have it all occurring in the regulated market.

It is with deep gratitude and respect that Flow Cannabis Co. submits these comments to the CAC ahead of the October 30, 2020 meeting.

Sincerely,

Michael Wheeler
VP of Policy Initiatives
Flow Cannabis Co.

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October 27, 2020

Jeff Ferro, Chair
Cannabis Advisory Committee
Bureau of Cannabis Control
2920 Kilgore Road
Rancho Cordova, CA 95670

Dear Mr. Chair,

On behalf of CMG/Caliva, we want to acknowledge and thank the Cannabis Advisory Committee for recognizing the need to scrupulously heed the Bagley Keene Open Meeting Act and returning the issue of THC potency to the CAC for further consideration (Item #6, Discussion and Possible Action on Recommendations Related to Impacts of High-THC Consumption Research).

As you recall, we were concerned that the general public had scant awareness that the CAC might be taking action on this issue in September and did not have the opportunity to weigh in on an important issue for consumers and the industry. You have cured that concern with this latest action, and we are pleased to provide comments on this item.

This is a cornerstone issue for both operators and consumers because it has potentially broad consequences for a deciding factor in a consumer’s choice of product and a commensurate impact on the industry that provides that product. You will recall that a similar battle was fought during the regulatory process over the limits on how many grams of cannabis could be sold to a single customer each day, which was intended to get at the same issue as this potency item seeks to address now. We assert that the issue has been addressed by the state, accommodated by the industry and accepted by the marketplace; adding yet another element of restriction seems unnecessarily burdensome.

However, we write today to express immediate concerns about the value of the approach anticipated in this discussion item. While the issue of potency is gaining resonance in some policymaking circles, debate is fundamentally devoid of empirical information to give that debate integrity.
We appreciate that the intent of the item is to provide an aggregation and accounting of empirical information so that the state can have the benefit of more information as it considers potential options on THC potency.

However, it is abundantly clear that there is very little peer-reviewed research on this subject available today, a fact echoed in a range of news reports, opinion pieces and studies about THC potency over the past two years. We submit that a scientific literature review has limited value when there is not much literature to review. We are also concerned that some of the literature, including articles that have been published in respected scientific journals, amount to not much more than opinion. A scientific literature review that extends to insights based in experience rather than empiricism has the potential to report skewed results that are not valid for policymaking purposes.

Given the dearth of THC potency studies, we strongly urge the Committee to consider recommending that research dollars instead be directed at actual studies of the beneficial or adverse consequences of THC at various levels of potency. Rather than simply validating the research desert when it comes to THC potency, state funds would be better spent adding to the collective empirical knowledge that can be shared across the globe, much as the Legislature decided was a valuable objective when it created the Center for Medicinal Cannabis Research at UC San Diego two decades ago.

While there are more research dollars now than there was in years past, there are still limited dollars available to the state. The Committee should be recommending and the Bureau of Cannabis Control should be granting dollars to research that actually fills the substantial gaps in our knowledge base.

We thank you for your favorable consideration.

Sincerely,

Rand Martin
Dear Members of the California Cannabis Advisory Committee,

I am writing this letter to address an item on your October 30, 2020 agenda (Item #6) related to possible action on recommendations related to impacts of high-THC consumption research. As many in the scientific community, like myself, may be unable to participate in your virtual meeting, and because decisions such as state regulation of high THC cannabis products must be made with the best scientific evidence, I believe it is necessary for you to hear directly from a large group of scientists.

I am a tenured, full professor at the University of Southern California’s Sol Price School of Public Policy and Senior Fellow in the USC Schaeffer Center for Health Policy & Economics. I have conducted NIH sponsored research on cannabis markets and their public health impacts for more than two decades, provided consultation to U.S. states and Canada regarding their cannabis liberalization policies, and currently serve on the World Health Organization’s Technical Expert Committee on Public Health Risks Association with Cannabis Use and Cannabis Use Disorders. Through my research and experiences, I have nurtured a broad network of scientific scholars who are top experts in their fields, ranging from pharmacology, neuroscience, neuropsychology, chemistry, public health, medicine, toxicology, criminal justice and epidemiology, to ensure that I stay abreast of the science in each of these areas as it pertains to my own research. I drew on that network to generate the list of signatories you will find here. While we come from different fields of study, have different scientific approaches, and even different beliefs concerning the benefits and harms of a legal cannabis market, there is genuine agreement regarding the strength of the emerging evidence with respect to high THC products and their association with adverse health outcomes for specific populations.

That is not to say that there are not positive medical benefits associated with consumption of high-THC products for some individuals. However, a public health and public safety approach would require the adoption of regulations to address the unique risks, harms, and public health costs associated with consumption of high THC products, which differ from consumption of low THC products. While there is currently no clear definition of “high-THC”, the current science focuses on dosage of use. There is increasing evidence of a “dose-response” relationship exists with the following negative health events, particularly identified in targeted age groups, demographic groups, and/or at-risk populations:


The science continues to grow its level of understanding regarding these relationships as well as others, so this should not be viewed as a comprehensive list. Nonetheless, there is indeed a growing consensus of the unique risks of high-THC products for particular subpopulations.
Two independent scientific workgroups, convened at the request of the states of Washington and Colorado, reviewed the most recent evidence on the topic and formulated similar consensus statements in their final reports. Both concluded that consumption of higher potency cannabis products contributes in a dose-response manner to adverse health, with an increased risk for young users and those with pre-existing mental health conditions. Similarly, just last week the American Society of Addiction Medicine (ASAM) released a public commentary on cannabis, acknowledging the therapeutic benefit of medical cannabis, the harm of prohibition, but the need to limit potency in a recreational market in light of known adverse health events. The signatories to this letter agree with the assessment that high THC products should be regulated differently from low THC products, particularly in the recreational market.

We appreciate the Committee's careful consideration of how to regulate high THC cannabis products in California, using the best available science on which to base your decision.

Sincerely,

Rosalie Liccardo Pacula

Rosalie Liccardo Pacula, Ph.D.
Elizabeth Garrett Chair in Health Policy, Economics & Law and Professor of Health Policy and Management
Sol Price School of Public Policy
Schaeffer Center for Health Policy & Economics
University of Southern California

Enclosure
The following scientists (name, title, institution and signature) support the statement of this letter that there is adequate scientific research to support differential regulation of high-THC products for recreational use by adults.

Name: Dr. George Sam Wang
Position/Institution: Associate Professor of Pediatrics, University of Colorado Anschutz Medical Campus, Children's Hospital Colorado
Signature:  

Name: Dr. Wayne Hall
Position/Institution: Professor, National Centre for Youth Substance Use Research, Faculty of Health and Behavioural Sciences, University of Queensland, Australia
Signature:  

Name: Jane Steinberg, Ph.D., MPH
Position/Institution: Assistant Professor, Department of Preventive Medicine, Keck School of Medicine at USC
Signature:  

Name: Dr. Janni Leung
Position/Institution: Research Fellow, School of Psychology & National Centre for Youth Substance Use Research, Faculty of Health and Behavioural Sciences, University of Queensland, Australia
Signature:  

Name: Dr. Gary Chan
Position/Institution: Research Fellow, National Centre for Youth Substance Use Research, Faculty of Health and Behavioural Sciences, University of Queensland, Australia
Signature:  

Name: Katherine Keyes
Position/Institution: Columbia University Mailman School of Public Health
Signature:  

...
Name: Robin Room  
**Position/Institution:** Distinguished Professor, La Trobe University, Melbourne, Australia

Signature:

Name: Keith Humphreys  
**Position/Institution:** Professor, Department of Psychiatry & Behavioral Sciences, Stanford University, School of Medicine

Signature:

Name: Dr. Eva Hoch  
**Position/Institution:** Head of Cannabinoid Research Group, Department of Psychiatry & Psychotherapy, Department of Psychology, Ludwig-Maximilian University, Munich Germany

Signature:

Name: Dr. Nadia Solowij  
**Position/Institution:** Professor, School of Psychology, University of Wollongong, NSW and Co-Director The Australian Centre for Cannabinoid Clinical and Research Excellence (ACRE), Australia

Signature:

Name: Sir Robin Murray  
**Position/Institution:** King’s College, London, UK

Signature:

Name: Dr. David Hammond  
**Position/Institution:** Professor, School of Public Health, University of Waterloo, Canada

Signature:

Name: Timothy Naimi  
**Position/Institution:** Director, Canadian Institute for Substance Use Research

Signature:
Name: Martin Y. Iguchi  
**Position/Institution:** Senior Behavioral Scientist, RAND Corporation

Signature:

Name: Brad Rowe  
**Position/Institution:** Lecturer Cannabis Policy and Society at UCLA Luskin School of Public Affairs

Signature:

Name: Anne Boustead, J.D., Ph.D.  
**Position/Institution:** Assistant Professor, University of Arizona

Signature:

Name: David Kerr, Ph.D.  
**Position/Institution:** Professor, School of Psychological Science, Oregon State University

Signature:

Name: Ziva D Cooper, PhD  
**Position/Institution:** Director, UCLA Cannabis Research Institute, Associate Professor, Jane and Terry Semel Institute for Neuroscience and Behavior, Department of Psychiatry and Biobehavioral Sciences, UCLA DGSOM

Signature:

Name: Yuyan Shi, Ph.D.  
**Position/Institution:** Associate Professor, Herbert Wertheim, School of Public Health and Human Longevity Science, University of California San Diego

Signature:

Name: Meenakshi S. Subbaraman, PhD  
**Position/Institution:** Biostatistician, Director of Statistical & Data Services, Alcohol Research Group, Public Health Institute

Signature:

Name: Alan J. Budney, Ph.D.  
**Position/Institution:** Dartmouth College, Geisel School of Medicine

Signature: Alan/Budney
Name: Deborah Hasin, Ph.D.
Position/Institution: Professor, Columbia University Dept of Psychiatry
Signature: Deborah Hasin

Name: Jacob T. Borodovsky
Position/Institution: Washington University School of Medicine in St. Louis
Signature:

Name: Benedikt Fischer, PhD
Position/Institution: Hugh Green Foundation Chair in Addiction Research and Professor; Schools of Population Health & Pharmacy; Faculty of Medical and Health Sciences, University of Auckland, New Zealand
Signature:

Name: William C. Kerr, Ph.D.
Position/Institution: Senior Scientist and Center Director, Alcohol Research Group, Public Health Institute
Signature: WC Kerr

Name: Chinazo Cunningham, MD, MS
Position/Institution: Professor of Medicine, Family & Social Medicine, Psychiatry & Behavioral Sciences at the Albert Einstein College of Medicine
Signature:

Name: David A. Gorelick, MD, PhD
Position/Institution: Professor of Psychiatry, University of Maryland
Signature:

Name: Steven Davenport, PhD
Position/Institution: RAND Corporation, Adjunct Researcher; Center for New Data, Co-Executive Director
Signature:
Name: Beatriz H. Carlini, PhD, MPH  
**Position/Institution:** Research Scientist, Cannabis Research and Education. Alcohol and Drug Abuse Institute-ADAII. Affiliate Associate Professor and Director, Tobacco Studies Program. School of Public Health, Health Services, University of Washington

Signature:

Name: Tom Freeman, PhD  
**Position/Institution:** Senior Lecturer and Director, Addiction and Mental Health Group, University of Bath

Signature:

Name: Brian J. Sherman, Ph.D.  
**Position/Institution:** Assistant Professor, Medical University of South Carolina

Signature:

Name: John T. Carnevale, PhD  
**Position/Institution:** President/CEO of Carnevale Associates

Signature:

Name: Valentina Lorenzetti  
**Position/Institution:** Australian Catholic University

Signature:

Name: Gregory J Tung, PhD  
**Position/Institution:** Associate Professor, Department of Health Systems, Management & Policy, Colorado School of Public Health

Signature:

Name: Kevin P. Haggerty  
**Position/Institution:** Social Development Research Group, University of Washington

Signature:
Name: Julia Dilley  
**Position/Institution:** Epidemiologist; Affiliate Instructor, School of Public Health and Community Medicine, University of Washington

Signature:

Name: Caislin Firth  
**Position/Institution:** Research Scientist, Alcohol & Drug Abuse Institute, University of Washington  

Signature:

Name: Nephi Stella  
**Position/Institution:** Professor, Department of Pharmacology and of Psychiatry and Behavioral Sciences, University of Washington  

Signature:

Name: Jennifer A. Bailey  
**Position/Institution:** Principal Research Scientist, Social Development Research Group, University of Washington  

Signature: