

Highlights of the Proposed Changes to California's Cannabis Cultivation Regulations

On June 6, 2018, the California Department of Food and Agriculture (CDFA) readopted emergency regulations for cannabis cultivation licensing in the state of California. The emergency regulations are effective for 180 days, and during this time CDFA must propose and adopt permanent regulations; CDFA released the proposed permanent regulations for cannabis cultivation licensing on July 13, 2018, which starts the formal rulemaking process and initiates the official 45-day public comment period.

The proposed permanent regulations include changes from CDFA's current emergency regulations based on public comments and further analysis by CDFA. The following is a summary of some key proposed changes; however, this list is not all-inclusive. To review all the proposed permanent cannabis cultivation regulations, please visit CDFA's CalCannabis Cultivation Licensing website at calcannabis.cdfa.ca.gov.

DEFINITIONS

- Modifies the terms "immature plant" or "immature" to include specific measurements for leaves or roots of plants to facilitate clear and consistent tagging/labeling requirements for seed and/or vegetatively propagated plants. (California Code of Regulations (CCR) § 8000(m))
- Clarifies "mixed-light cultivation" by specifying different lighting combinations that may be used to achieve more than one harvest without being considered indoor cultivation. (CCR § 8000(t))
- Clarifies "outdoor cultivation" by prohibiting the use of light deprivation in the canopy area. (CCR § 8000(x))
- Clarifies "nonmanufactured cannabis product" by explaining how kief is aggregated. (CCR § 8000(v))
- Modifies "pre-roll" to specify what it may contain. (CCR § 8000(aa))

APPLICATIONS

- Clarifies that CDFA shall not issue any temporary licenses or extensions of temporary licenses after

December 31, 2018. Temporary licenses with an expiration date after December 31, 2018, will be valid until they expire, but they will not be extended beyond their expiration date. (CCR § 8100(h))

- Clarifies the documentation an applicant shall submit to CDFA for a labor peace agreement. (CCR § 8102(y))
- Adds a requirement, if applicable, that an applicant shall provide evidence that the proposed premises is not located in a watershed or other geographic area that the State Water Resources Control Board or the California Department of Fish and Wildlife has determined could be adversely impacted to a significant degree by cannabis cultivation. (CCR § 8102(cc))
- Adds a requirement in the premises diagram for the licensee to identify an area(s) that will be used to physically segregate cannabis or nonmanufactured cannabis products subject to an administrative hold. (CCR § 8106(a)(1))
- Adds a requirement that applicants must include a copy of their most recent water service bill, if applicable. (CCR § 8107(a)(1) and (a)(2))

- Adds a requirement that applicants must include a detailed description and photographs of the rainwater-catchment system infrastructure if their water source is a rainwater-catchment system. (CCR § 8107)

- Adds a requirement that the applicant's designated responsible party shall be the licensee's California Cannabis Track-and-Trace (CCTT) system account manager, who must register for CCTT system training within 10 business days of receiving a CDFA notice confirming his or her annual-license application is complete. (CCR § 8109(a))

CULTIVATION LICENSE FEES AND REQUIREMENTS

- Clarifies the critical timeframes in which applicants must renew their licenses. If applicable, a licensee may request a license designation change from an A-License to an M-License, or an M-License to an A-License. (CCR § 8203)
- Clarifies the meaning of "disaster" for the purposes of disaster relief. (CCR § 8207(f))

CULTIVATION-SITE REQUIREMENTS

- Adds a requirement for an after-market non-resettable hour-meter if a generator is not equipped with one. (CCR § 8306(d))

CALIFORNIA CANNABIS TRACK-AND-TRACE (CCTT) SYSTEM





- Clarifies that a "lot" of immature plants shall be uniform in strain. (CCR § 8403(b)(1))
- Clarifies which activities are required to be entered into the CCTT system, including the planting of immature lots, tagging of immature plants, and specified harvest information. (CCR § 8405(c))
- Adds a requirement that any commercial cannabis activity conducted between a temporary licensee and an annual licensee shall be reported in the CCTT system by the **annual** licensee. (CCR § 8405(f))

COMPLIANCE AND ENFORCEMENT

- Clarifies that CDFA shall use violation classes defined in California Code of Regulations § 8601(a) for violations that preclude or interfere with enforcement of *any* state law, including state labor laws and related regulations. (CCR § 8601(d))
- Adds circumstances and notice and hearing procedures for CDFA to issue an emergency decision and an order for a temporary suspension or an administrative hold to prevent or avoid immediate danger to public health, safety, or welfare. (CCR § 8603)
- Clarifies that a respondent to a notice may be represented by legal counsel at an informal hearing. (CCR § 8605(b)(2))
- Modifies where a respondent may file an appeal to a CDFA informal-hearing decision; appeals now must go to the Cannabis Appeals Panel instead of the Superior Court. (CCR § 8606(f))



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