

Medical Cannabis Cultivation Program - Summary of Statute and Regulatory Goals

STATUTE vs REGULATION

Statute: *A written law passed by a legislative body.*

The Medical Cannabis Regulation and Safety Act (MCRSA), established the laws/statutes that directed the California Department of Food and Agriculture (CDFA) to create the Medical Cannabis Cultivation Program (MCCP) and carry out specific provisions, including development of regulations for a licensing program for medical cannabis cultivation, developing a “track and trace” solution to track cannabis through the distribution chain, and evaluation of the licensing program’s compliance with environmental concerns.

Regulations: *Process in which state agencies (i.e. CDFA) implement, interpret, or make specific the statute, or the Department’s procedures to meet the law; regulations carry the force of law.*

MCCP is required to follow the Administrative Procedure Act (APA) which establishes rulemaking procedures and standards for state agencies in California. The requirements outlined in the APA are designed to provide the public with a meaningful opportunity to participate in the adoption of state regulations and to ensure that regulations are clear, necessary and legally valid.

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Below is a summary of requirements from the law (MCRSA) specific to medical cannabis cultivation licenses and MCCP's regulatory goals.

Definitions

Statute: Defines many terms such as: applicant, batch, cannabis, cultivation, cultivation site, licensee, licensing authority, lot, and nursery.

Regulations: Define terms not defined in statute that will be required for cultivation licensing such as canopy, flowering, immature, mixed-light cultivation, premises, and propagate.

Application Requirements

The MCRSA requires cultivators to submit the following for license applications:

- ✓ Board of Equalization seller's permit number
- ✓ Proof of fingerprinting submission to the California Department of Justice
- ✓ Copy of a local license, permit or other authorization from a local jurisdiction to cultivate
- ✓ A cultivation plan detailing grow site dimensions, chemical use protocols, water source and storage, waste removal plan, security protocols, inventory tracking procedures, quality control procedures, product storage and labeling
- ✓ Proof of the legal right to occupy the proposed cultivation site
- ✓ Proof of a bond in the amount of \$25,000
- ✓ Copy of a valid Department of Fish and Wildlife Permit 1602 or written verification from the Department that a streambed alteration agreement is not required
- ✓ If applicable, approval of water diversion and water rights
- ✓ If applicable, a certificate of rehabilitation for a conviction

The MCRSA also requires an applicant to attest to the following:

- ✓ A license is only valid for the single, identified location
- ✓ The proposed location is located beyond a 600-foot radius from a school
- ✓ The applicant is not a licensed retailer of alcoholic beverages
- ✓ The applicant is an "agricultural employer"
- ✓ For an applicant with 20 or more employees, the applicant will enter into a Labor Peace Agreement
- ✓ Under penalty of perjury, the information in the application is complete, true and accurate; the applicant has read and is familiar with all applicable laws and regulations

Regulations: Define the application process; clarify whether applicants will need to submit information, documentation, or attest to the requirements outlined in statute; how applications must be submitted; set application processing fees and payment methods.

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LICENSING

Statute: The MCRSA specifies that MCCP develop regulations to license nurseries and indoor, outdoor and mixed-light (light deprivation) grow sites using the following parameters.

Regulations: Identify the cultivator license types by light source and site size; clarify the allowable combinations of licenses; outline the license renewal process; and set licensing fees.

License Types Defined in Statute

	<i>Outdoor</i> (no artificial light)	<i>Indoor</i> (exclusively artificial light)	<i>Mixed-Light</i> (combo of natural & supplemental artificial light)
<i>Special Cultivator</i>	Type 1 Up to 5,000 sq ft, or up to 50 mature plants on noncontiguous plots	Type 1a Up to 5,000 sq ft	Type 1b Up to 5,000 sq ft
<i>Small Cultivator</i>	Type 2 5,001 - 10,000 sq ft	Type 2a 5,001 - 10,000 sq ft	Type 2b 5,001 - 10,000 sq ft
<i>Cultivator</i>	Type 3 10,001 sq ft to one acre	Type 3a 10,001 - 22,000 sq ft	Type 3b 10,001 - 22,000 sq ft
<i>Nursery</i>	Type 4 Up to four acres	Type 4 Up to four acres	Type 4 Up to four acres



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CULTIVATION REQUIREMENTS

Statute: Requires that MCCP consider and mitigate environmental impacts of cannabis cultivation including input from several different departments for the development of cultivation requirements.

Regulations: Specify medical cannabis cultivator requirements for environmental compliance by license type.

General Cultivation: MCCP governs the licensing of indoor and outdoor commercial cultivation sites. Any relevant mitigation requirements determined by the environmental evaluation shall be included in a license for cultivation.

Water: MCRSA requires any cultivation license to include requirements for compliance with applicable principles, guidelines and requires established by the Water Resources Control Board.

Wildlife: The MCRSA requires the State Water Resources Control Board, in consultation with the Departments of Fish and Wildlife and Food and Ag, to ensure that individual and cumulative effects of water diversion and discharge do not affect instream flows needed for fish spawning, migration and rearing.

Pesticides: MCRSA requires the Department of Pesticide Regulation to develop guidelines for the use of pesticides in the cultivation of cannabis. DPR is also required to ensure that the application of pesticides in connection with indoor or outdoor cannabis cultivation is compliant with existing pesticide use laws.

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Track & Trace Program



Statute: Requires the MCCP to establish a program for the identification of permitted medical cannabis plants at a cultivation site. The unique identifier is required to be attached at the base of each plant and may be but not limited to, a zip tie. Specific information including quantity, weight, variety, estimated times of departure and arrival, licensee receiving product, and transaction date are required.

Regulations: Specify the system cultivators must use; specify the process for tracking product that existed prior to licensing; identify when cannabis cultivators and nurseries must track/report movement of cannabis.

Inspections



Statute: Allows licensing agencies to conduct compliance inspections at the licensed premises. The licensing agency may examine the records of a licensee. All records related to commercial cannabis activity shall be maintained for a minimum of seven years. Failure to provide the records at the request of a licensing agency may be cause for a penalty of thirty thousand dollars.

Regulations: Specify the types of records that must be maintained and made available; identify site safety condition requirements for inspection; inspection hours; specify time allotment for providing information requested for inspection.

Enforcement



Statute: Authorizes MCCP to revoke, suspend or deny a license that does not comply with statute requirements; take disciplinary action and assess fines against licenses in violation of requirements.

Regulations: Define minor, moderate and serious violations and associated penalties; specify deadlines and procedures for hearings.