



June 12, 2017

California Department of Food and Agriculture  
Attn: Rachelle Kennedy  
CalCannabis Cultivation Licensing  
Proposed Medical Cannabis Cultivation Regulations  
1220 N Street, Suite 400  
Sacramento, CA 95814

Transmit Via E-Mail: [CalCannabisRegs@cdfa.ca.gov](mailto:CalCannabisRegs@cdfa.ca.gov)

**RE: Comments on Medical Cannabis Cultivation Program Regulations**

Dear Ms. Kennedy:

On behalf of the Rural County Representatives of California (RCRC), the Urban Counties of California (UCC), and the California State Association of Counties (CSAC), we offer our comments on the proposed regulations for the State's medical cannabis cultivation and licensing program.

The specific language revisions that counties recommend for the proposed Medical Cannabis Cultivation Program Regulations are set forth in an appendix to this letter. These recommendations are largely self-explanatory, but we would also like to provide the following detailed comments:

- The licensed "premises" is subject to a comprehensive array of regulatory controls. Allowing applicants to unilaterally define the boundaries of their premises could allow evasion of those controls, or enforcement difficulties (e.g., confusion regarding whether a particular area is subject to mandatory access/inspection by the Department). We have consequently recommended that the regulations define "premises" as the entire portion of a legal parcel (or contiguous parcels) under the licensee's possession or control. This would allow multiple licenses on a single parcel (provided that each licensee is leased and controls a separate portion of the property), but extend each licensee's obligations respecting activities on the "premises" to the entirety of the contiguous area that they actually control. (Regs., §§ 8000(z) and 8206. See also § 8300(e).)

- The regulations' proposed definition of "owner" (§ 8101) appears inconsistent with MCRSA, and creates easy avenues for ineligible persons to participate in (and profit from) cannabis licensees.
  - The exclusion equity owners (of non-publicly traded companies) with less than a 20% interest appears to contravene Business and Professions Code section 19300.5, subdivision (b)(2), which requires inclusion of "each person . . . having a financial interest in, the proposed premises" - without exception.
  - The exclusion of owners of an entity that, in turn, owns the licensee (so long as those individuals do not serve as CEO or board member of the intermediate entity) is likewise inconsistent with Business and Professions Code section 19300.5, subdivision (b), and will allow easy evasion of the background check and cross-ownership restrictions.
  - The regulation likewise has no provision addressing financial interests other than equity ownership (e.g., investors, private lenders, holders of debt securities). This is likewise inconsistent with the broad reach of MCRSA – and with the careful approach taken by other states endeavoring to regulate adult-use cannabis enterprises (see below).
  - Business and Professions Code section 19300.5, subdivision (b)(1) explicitly includes the "[o]wner or owners of the proposed premises, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the premises." This provision seems disregarded in the regulations, which have no provision addressing property (fee) owners.
  - The proposed definition of persons "participating in the direction, control, or management of" the licensee is unduly narrow, and will promote evasion and participation by ineligible individuals. We have recommended a revised definition based upon the Fair Political Practices Commission's conflict-of-interest regulations (Cal. Code Regs., tit. 2, § 18704), which are likewise designed - and effectively function - to identify and regulate the true decision-makers within an organization.

We have proposed a revised definition of owner consistent with MCRSA, premised largely upon the disclosure provisions found elsewhere in the draft regulations (§ 8102(b)(13)(k).) We would alternatively suggest that the Department review the regulatory approach taken by the states of Colorado and Washington, and consider developing a modified definition of "owner" consistent with those provisions. (See the Colorado and Washington regulations,

<https://www.colorado.gov/pacific/sites/default/files/Complete%20Retail%20Marijuana%20Rules%20as%20of%20April%202014%202017.pdf>– p.4 and <http://apps.leg.wa.gov/wac/default.aspx?cite=314-55-035>)

- The proposed regulatory provisions limiting the definition of "canopy" – and allowing certain types of cannabis activities outside of the canopy area without stated limitation on intensity or scope – could, collectively, allow opportunities for diversion and unlicensed activities that would be difficult to prevent and detect. We have consequently proposed that propagation areas, research and development areas, and areas dedicated to seed production (utilizing mature plants) be reasonably limited – but have left the exact thresholds open for further discussion. (Regs., §§ 8302, 8309, 8311.)
- The Initial Statement of Reasons indicates that the intention of Sections 8102, subdivision (b)(31) and 8117 is to require compliance with – and enforceability of – local (as well as state) laws applicable to tribal cannabis cultivation. We recommend insertion of appropriate language in both sections to clarify and effectuate this intention.
- We recommend that the CEQA section (§ 8102(b)(11)) be modified to (1) clarify the circumstances under which CEQA documentation generated by the local jurisdiction will be submitted, and (2) revise the description of the CEQA process when the Department is acting as lead agency to incorporate the requirements applicable to such circumstances as set forth in the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15084, subds. (d)-(e)) and applicable caselaw. (See, e.g., *Friends of La Vina v. County of Los Angeles* (1991) 232 Cal.App.3d 1446.)
- We recommend revision to Section 8102, subdivision (b)(10)(A)(iii) because permits issued by local jurisdictions may not mirror the precise MCRSA license types. The local permit should therefore be required to specify the types of cannabis activities permitted thereunder – not any particular state license type.
- We have proposed several revisions to Section 8202, to improve the effectiveness and enforceability of the general regulatory requirements for licensees:
  - Subdivision (d) has been revised to (1) broaden the list of prohibited activities to avoid opportunities for confusion and diversion, and (2) to clarify the potentially ambiguous phrase “from their licensed premises” to include both distribution of cannabis derived from the premises (anywhere) and any distribution of cannabis (derived from anywhere else) at the licensed premises.

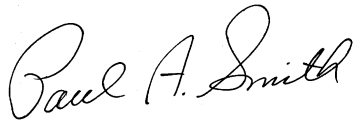
- Proposed new Subdivision (e) is intended to avoid the confusion and enforcement difficulties that might arise if licensees (or others) were permitted to engage in unlicensed (e.g., primary caregiver) cultivation on the same property as licensed cultivation.
  - Proposed new Subdivision (f) is similar in concept to Section 40175 of the draft CDPH regulations (which bans manufacturers from producing non-cannabis products on the licensed premises), but has been tailored to fit cultivation licensees by (1) limiting the prohibition to food products, to avoid confusion or contamination between regulated edibles and non-cannabis foods, but (2) expanding the preclusion to includes sales and distribution of such foods – not just manufacturing. (This revised prohibition would not preclude cultivation licensees from making or selling other types of non-cannabis products – such as paraphernalia, etc.)
  - Proposed new Subdivision (g) is adapted from Section 5110 of the BMCR regulations, and is intended to serve the purposes outlined in the Bureau's ISOR ([http://www.bmcr.ca.gov/laws\\_regs/mcrsa\\_isor.pdf](http://www.bmcr.ca.gov/laws_regs/mcrsa_isor.pdf) - p. 50)
- We propose to revise Section 8102, subdivisions (b)(10)(A)(vii)-(viii) to clarify that the local signatory is merely authorized to certify the validity and due issuance of the local permit – and remove any implication that they are authorized to bind the local jurisdiction in any other fashion.
  - We have proposed revisions to Sections 8102(b)(10)(B) and 8107, subdivision (h) to clarify the nature and (limited) effects of the local jurisdiction's communications and assurances regarding an applicant's compliance with local ordinances.
  - We proposed to revise Section 8102, subdivision (b)(30) to require that indoor cultivation sites receive an actual inspection for Fire Code compliance - not merely notification to the Fire Department.
  - We have proposed to revise Sections 8104 and 8106, subdivision (b) to include language taken directly from the governing statute, Business and Professions Code section 19321, subdivision (b), for clarity and avoidance of confusion.
  - We have proposed revisions to Section 8113 to clarify and expand the critical events that must be promptly reported by licensees, and to provide that notification of these events should also be sent to the local jurisdiction.
  - We recommend addition of a new Subdivision (f) to Section 8115, requiring submission of compliance documentation issued by the local jurisdiction as part

of the annual renewal process (as opposed to self-certification of compliance by the licensee).

- The term “licensee” is narrowly defined in these regulations (§ 8000(n)) – and that narrow definition is inappropriate in the particular context of Section 8210.
- We recommend addition of a new section (§ 8300.5) clarifying that the “cultivation plan” required under the regulations functions as the “operating procedures” requirement of Business and Professions Code section 19322 – and that deviation from the cultivation plan is thus cause for discipline under Business and Professions Code section 19311.

We appreciate the opportunity to provide these comments on the Proposed Medical Cannabis Cultivation Program Regulations. If you have any questions, please contact Paul A. Smith at [psmith@rcrcnet.org](mailto:psmith@rcrcnet.org), Jolena Voorhis at [jolena@urbancounties.com](mailto:jolena@urbancounties.com) or Cara Martinson at [cmartinson@counties.org](mailto:cmartinson@counties.org).

Sincerely,



PAUL A. SMITH  
Senior Legislative Advocate  
RCRC



CARA MARTINSON  
Legislative Representative  
CSAC



JOLENA L. VOORHIS  
Executive Director  
UCC

cc: Graciela Castillo-Krings, Office of Governor Edmund G. Brown, Jr.  
Kim Craig, Office of Governor Edmund G. Brown, Jr.  
Darci Sears, Office of Assembly Speaker Anthony Rendon  
Gayle Miller, Office of Senate President Pro Tempore Kevin de León

Attachment: Appendix to Counties' Comment Letter

**APPENDIX TO COUNTIES' COMMENT LETTER  
LANGUAGE REVISIONS RECOMMENDED FOR  
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE  
MEDICAL CANNABIS CULTIVATION PROGRAM REGULATIONS**

**Revise Proposed Regulations § 8000, subd. (z) to read:**

- (z) "Premises" means the ~~designated~~ structure(s) and land specified in the application that are ~~in possession of and~~ used by the applicant or licensee to conduct the commercial cannabis activity, together with any contiguous real property and structures under the possession or control of the licensee. The premises ~~shall be a contiguous area and~~ may only be occupied by one licensee.

**Revise Proposed Regulations § 8101 to read:**

§ 8101. Owner.

- (a) For publicly traded companies, "owner" means the chief executive officer ~~or and any each~~ person or entity with an aggregate ownership interest of 5 percent or more.
- (b) For all ~~businesses business entities~~ other than publicly traded companies, an owner is all of the following:
- (1) ~~An Each~~ individual that has ~~an aggregate ownership interest a~~ financial interest, other than a security interest, lien, or encumbrance, of 20 percent or more in the commercial cannabis business in the business entity that is an applicant or licensee under this chapter. ;
- (2) ~~Each~~ individual that has a financial interest, other than a security interest, lien, or encumbrance, in any business The chief executive officer and all members of the board of directors of an entity, when that entity has a financial interest, other than a security interest, lien, or encumbrance, in the business entity that is an applicant or licensee under this chapter.
- ~~(2)(3)~~ (3) Each individual having an ownership interest, other than a security interest, lien, or encumbrance, in the real property upon which the licensed premises will be located has an aggregate ownership interest, other than a security interest, lien, or encumbrance, of 20 percent or more in the commercial cannabis business; or and
- (4) ~~An Each~~ individual that will be participating in the direction, control, or management of the licensed commercial cannabis business. For purposes of this section, participating in the direction, control, or management of the licensed commercial cannabis business means any of the following:
- (A) The individual has been delegated discretionary powers to organize, direct, carry on or control the operations of the licensed commercial cannabis business. Authority to control one or more of the following functions may be considered evidence that such an individual is participating in the direction, control, or management of the licensed commercial cannabis business:
- (i) To hire or separate employees.
- (ii) To contract for the purchase or sale of cannabis.
- (iii) To make or participate in making policy decisions relative to operations of the licensed commercial cannabis business.
- (B) The individual authorizes or directs any action of the licensed commercial cannabis business, obligates or commits the business to any course of action, or enters into any contractual agreement on behalf of the business.
- ~~(B)(C)~~ (C) The individual provides information, an opinion, or a recommendation for the purpose of affecting decisions of the commercial cannabis business without significant intervening substantive review.
- (c) Individuals that have a community property interest under Section 760 of Family Code in the commercial cannabis business but who will not be participating in the direction, control, or management of the commercial cannabis business as defined under subsection (b)(3) of this section are not required to submit the information required of owners in the application for licensure under Section 8102, subsection (b)(13) of this Chapter. However, information regarding an individual with a community property interest shall be disclosed by the owner in the application for licensure pursuant to 8102, subsection (b)(13)(O) of this Chapter. If a license in which an individual has a community property interest is revoked, the individual with community property

interest shall be barred from holding an interest in a cultivation license that was revoked for the same period of time as the owner is barred from obtaining a new license. If a license in which an individual has a community property interest in is denied, the individual shall be barred from holding an interest in a cultivation license for a period of one year.

(d) A bank or financial institution whose interest constitutes only a loan is not considered to be an owner.

~~(d) The following individuals are considered to have a noncontrolling interest in the commercial cannabis business and are not required to submit the information required of owners in the application for licensure under Section 8102, subsection (b)(13) of this Chapter:~~

~~(e) Individuals that own an interest in a commercial cannabis business that is less than 5 percent for publicly traded companies or less than 20 percent for all other businesses;~~

~~(f) Individuals that own an interest of an entity owner under subsection (b)(2) that are not the chief executive officer nor a member of the board of directors; and~~

~~(g) Individuals that own an interest in an entity that owns an interest in a commercial cannabis business that is less than 20 percent.~~

~~(h)(e) For purposes of this section "financial interest" means an investment in the business entity, a loan provided to a commercial cannabis business, or any other equity interest in a commercial cannabis business.~~

**Revise Proposed Regulations § 8102, subdivision (b)(10)(A) to read:**

- (A) A copy of the license, permit, or other authorization issued by the local agency with jurisdiction over the proposed premises. The license, permit, or other authorization shall contain:
- (i) Name of the applicant;
  - (ii) Address of the premises being locally licensed;
  - (iii) ~~License type~~Commercial cannabis activities for which the applicant is locally licensed;
  - (iv) Expiration date of the local authorization;
  - (v) Name of the local jurisdiction;
  - (vi) Name of the local jurisdiction office that issued the license, permit, or other authorization;
  - (vii) Name and contact information for the person authorized by the governing board of the local jurisdiction to ~~sign~~certify the local license, permit, or other authorization on its behalf; and
  - (viii) Signature of the person authorized by the governing board of the local jurisdiction to certify the local license, permit, or other authorizationsign on behalf of the local jurisdiction.

**Revise Proposed Regulations § 8102, subdivision (b)(10)(B) to read:**

- (B) A statement that, to the best of the local jurisdiction's knowledge, the Certification that the applicant is in, or will be in compliance with all local ordinances and regulations including the General Plan, zoning ordinances, building code standards, ~~noise ordinances, and land use plans~~and other applicable ordinances and land use plans. Such statement shall not preclude either the local jurisdiction or the Department from subsequently determining that the applicant is not in compliance with all local ordinances and regulations and taking appropriate enforcement action, and shall not be binding upon nor otherwise estopp either the local jurisdiction or the Department in any subsequent administrative or judicial action or proceeding.

**Revise Proposed Regulations § 8102, subdivision (b)(11) to read:**

- (11) ~~Evidence~~(A) If issuance of the the local permit, license or other authorization was subject to the Division 13 of the Public Resources Code; California Environmental Quality Act (CEQA), the applicant shall provide a copy of the Notice of Determination or Notice of Exemption filed

by the local agency, and either a copy of any related CEQA document or reference to where it can be located electronically.

(B) If issuance of the the local permit, license or other authorization was not subject to CEQA, or if the local jurisdiction otherwise did not file a Notice of Determination or Notice of Exemption for the project, the applicant will be responsible for preparing draft environmental review documents, as directed by the department, for the department's consideration in its independent judgment as lead agency. The applicant shall be responsible for hiring all necessary consultants to perform the environmental review, and for all costs associated with the department's compliance with CEQA for the project. ~~that the local permit, license or other authorization to cultivate cannabis was issued in conformance with Division 13 of the Public Resources Code; California Environmental Quality Act (CEQA), including a copy of the Notice of Determination or Notice of Exemption, and either a copy of the CEQA document or reference to where it can be located electronically. If the local jurisdiction did not prepare a CEQA document, the applicant will be responsible for providing an environmental document in compliance with CEQA that can be certified by the Department in its role as lead agency;~~

**Revise Proposed Regulations § 8102, subdivision (b)(30) to read:**

- (30) If applying for an indoor license type, the applicant shall attest that the local fire department has inspected ~~been notified of~~ the cultivation site for compliance with the California Fire Code, and shall provide a copy of the results of that inspection;

**Revise Proposed Regulations § 8102, subdivision (b)(31) to read:**

- (31) Any applicant that may fall within the scope of sovereign immunity that may be asserted by a federally recognizable tribe or other sovereign entity shall waive any sovereign immunity defense that the applicant may have, may be asserted on its behalf, or may otherwise be asserted in any state or local administrative or judicial enforcement actions against the applicant or licensee, regardless of the form of relief sought, whether monetary or otherwise, under the state ~~and local~~ laws and regulations governing commercial cannabis activity; and provide documentation as may be requested that establishes that the applicant has the lawful authority to enter into the waiver described above, and has effectively done so. The waiver shall meet the requirements of Section 8117 of this Chapter.

**Revise Proposed Regulations § 8104 to read:**

§ 8104. Requirements for Continued Operation While Application Pending.  
All applicants that were in operation prior to January 1, 2018, as specified in Section 8106 of this Chapter, may continue to operate while their application is pending if a completed application is submitted to the Department no later than 5:00 p.m. Pacific Standard Time on July 2, 2018, and the continuing operations of the applicant are the same activities in which the applicant is seeking licensure, ~~and provided that the applicant continues to operate in compliance with all local and state requirements, except possession of a state license.~~ If the application for licensure is denied, the applicant shall cease all commercial cannabis business operations until a license is obtained.

**Revise Proposed Regulations § 8106, subdivision (b) to read:**

- (b) For purposes of this section, “actively conducting” means engaging in cultivation of cannabis as authorized by the local jurisdiction ~~and in compliance with local zoning ordinances and other state and local requirements.~~

**Revise Proposed Regulations § 8107 to read:**

§ 8107. Good Standing.



For the purposes of Section 8105 of this Chapter, good standing shall be evidenced by a document issued or signed by the local jurisdiction that contains all of the following:

- (a) Name of the applicant;
- (b) Address of the premises to be licensed;
- (c) License type for which the applicant is applying; (d) Name of the local jurisdiction;
- (e) Name of the local jurisdiction office that issued the license, permit, or other authorization for the applicant to conduct commercial cannabis activity in the jurisdiction as required by Section 19320 of Business and Professions Code;
- (f) Name and contact information for the person authorized by the governing board of the local jurisdiction to ~~sign~~ verify compliance on its behalf;
- (g) Signature of the person authorized by the governing board of the local jurisdiction to ~~sign~~ verify compliance on behalf of the local jurisdiction; and
- (h) The following statement: "The above named party has been issued a license, permit, or other authorization from this jurisdiction to conduct commercial cannabis cultivation. ~~To the best of our knowledge, the~~ above named party is currently in operation and was operating in good standing in this jurisdiction on or before January 1, 2016." ~~Such statement shall not preclude either the local jurisdiction or the Department from subsequently determining that the applicant is not in compliance with all local ordinances and regulations and taking appropriate enforcement action, and shall not be binding upon nor otherwise estopp either the local jurisdiction or the Department in any subsequent administrative or judicial action or proceeding.~~

**Revise Proposed Regulations § 8112, subdivision (f) to read:**

- (f) ~~(e)~~ The licensee does not hold a local license, permit, or other authorization to engage in commercial cannabis activity or has been denied a license, permit, or other authorization to engage in commercial cannabis activity by a state licensing authority or any local ~~agency~~ jurisdiction; or

**Revise Proposed Regulations § 8113 to read:**

§ 8113. Notification of License Information Change.

- (a) Licensee shall notify the Department and each local jurisdiction in which Licensee holds a local license, permit, or other authorization in writing within 10 calendar days of any change to any item listed in the application.
- (b) Licensee shall notify the Department ~~Department~~ and each local jurisdiction in which Licensee holds a local license, permit, or other authorization in writing of the following within 48 hours of:
  - (1) ~~Imposition of any civil, criminal, or administrative penalty or judgment Receiving the penalty or judgment of a criminal penalty or civil judgement~~ rendered against the licensee;
  - (2) ~~(2)~~ Commencement of civil, criminal, or administrative enforcement proceedings by any local jurisdiction; and
  - (3) ~~(1)~~ Receiving notification of the revocation of any local license, permit or other authorization.
- (c) Licenses are not transferable, and in case of a change to the business organizational structure or ownership, a new application and application fee are required.

**Add new Subdivision (f) to Proposed Regulations § 8115 to read:**

- (f) Documentation issued by the local jurisdiction verifying that the licensee's local license, permit, or other authorization remains valid and in full force and effect, and that the licensee remains in compliance with all local ordinances and regulations, in accordance with Section 8102(b)(10) of this Chapter.

**Revise Proposed Regulations § 8117 to read:**

§ 8117. Waiver of Sovereign Immunity.

- (a) The written waiver shall include that the applicant or licensee has the lawful authority to enter into the waiver required by this section, the applicant or licensee hereby waives sovereign immunity, and the applicant or licensee agrees to do all of the following:
- (1) Provide documentation to the Department that establishes that the applicant or licensee has the lawful authority to enter into the waiver required by this section;
  - (2) Conduct all commercial cannabis activity in full compliance with the state **and local** laws and regulations governing commercial cannabis activity, including submission to all enforcement provisions thereof;
  - (3) Allow access as required by statute or regulation by persons or entities charged with duties under the state **or local** laws and regulations governing commercial cannabis activity to any premises or property at which the applicant conducts any commercial cannabis activity, including premises or property where records of commercial cannabis activity are maintained by or for the applicant or licensee;
  - (4) Provide any and all records, reports, and other documents as may be required under the state **and local** laws and regulations governing commercial cannabis activity;
  - (5) Conduct commercial cannabis activity with other state commercial cannabis licensees only, unless otherwise specified by state law;
  - (6) Meet all of the requirements for licensure under the state **and local** laws and regulations governing the conduct of commercial cannabis activity, and provide truthful and accurate documentation and other information of the applicant's qualifications and suitability for licensure as may be requested;
  - (7) Submit to the personal and subject matter jurisdiction of the California courts to address any matter related to the waiver or commercial cannabis application, license, or activity **or any related local license, permit, or other authorization**, and that all such matters and proceedings shall be governed, construed and enforced in accordance with California substantive and procedural law, including but not limited to the Act;
- (b) Any applicant or licensee shall immediately notify the Department of any changes that may materially affect the applicant and licensee's compliance with subdivision (a).
- (c) Any failure by an applicant or licensee to comply with the requirements of subdivisions (a) and (b) shall be a basis for denial of an application or renewal or discipline of a licensee.

**Revise Proposed Regulations § 8202 to read:**

§ 8202. General License Requirements.

- (a) Department issued cultivation licenses shall be valid for 12 months from the date of issuance and shall be renewed annually.
- (b) Every person shall obtain a separate license for each premises where it engages in commercial cannabis cultivation. (c) Cultivation licenses are not transferrable or assignable to any other person, entity, or property.
- (d) Licensees are prohibited from selling, **distributing, dispensing, providing**, bartering or donating any ~~commercially cultivated~~ **cannabis from cultivated at their licensed premises directly** to an unlicensed premises or individual, **and are further prohibited from selling, distributing, dispensing, providing, bartering or donating any cannabis, from any source, to an unlicensed premises or individual from or upon their licensed premises.**
- (e) Licensees shall not allow, suffer, or permit any unlicensed cannabis cultivation, whether in accordance with Section 19319 of the Business and Professions Code or otherwise, to occur on their licensed premises.
- (f) Licensees shall not allow, suffer, or permit the cultivation, manufacturing, preparation, production, packaging, labeling, sale, or distribution of any food, as defined by Section 109935 of the Health and Safety Code, any drug, as defined by Section 109925 of the Health and Safety Code, or any food additive, as defined in Section 109940, upon the licensed premises.
- (g)(1) A licensee shall not hire an employee or volunteer if the person works or volunteers for another person issued a state license to engage in commercial cannabis activity unless

the other medical cannabis licensee is a cultivator or nursery.

(2) A licensee shall ensure his or her employees do not have a financial interest as defined in section 8102 subsection (b)(13)(K) of this division in another state license to engage in commercial cannabis activity. A licensee shall have a document for each employee in which the employee signs and attests to not having a financial interest in another state license to engage in commercial cannabis activity unless allowed under subsection (g)(1).

**Revise Proposed Regulations § 8206 to read:**

§ 8206. Multi-Tenant Cultivation.

Multiple cultivation licensees and license types may be located on the same legal parcel of real property, ~~as established by an assessor's parcel number~~, if each licensed premises is under the possession and control of a separate licensee, and has a unique entrance and immovable physical barriers between uniquely licensed premises.

**Revise Proposed Regulations § 8210 to read:**

§ 8210. Prohibition of Product Returns.

Licensees are prohibited from accepting returns of cannabis plants or nonmanufactured cannabis products after transferring actual possession of cannabis plants or nonmanufactured cannabis to another person issued a state license to engage in commercial cannabis activity~~licensee~~.

**Revise Proposed Regulations § 8300, subdivision (e) to read:**

- (e) If commercial cannabis activities will occur only upon the proposed premises consists of only a portion of ~~a the proposed property~~premises, the diagram shall be labeled indicating which part of the ~~property is the proposed premises~~premises will be used for such activities and what the remaining property is used for.

**Add new Section 8300.5 to Proposed Regulations to read:**

§ 8300.5. Cultivation Plan as Operating Procedure.

The cultivation plan developed and submitted as required in Sections 8301, 8302, or 8303 of this Chapter shall constitute the operating procedures for the licensee as set forth in subdivision (b) of Section 19322 of the Business and Professions Code.

**Revise Proposed Regulations § 8302 to read:**

§ 8302. Cultivation Plan Requirements for Nursery Licenses.

The Cultivation Plan for Nursery licenses shall include the following information:

(a) A diagram showing all boundaries and dimensions, in feet, of the following proposed areas:

- (1) Premises diagram as required by Section 8300 of this Chapter;
- (2) Propagation area(s) which shall contain only immature plants;
- (3) Designated research and development area(s) which may contain mature plants. The designated research and development area(s) shall be no more than \_\_\_\_\_ square feet, measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries. If the research and development area uses a shelving system, the surface area of each level shall be included in the total square footage calculation;
- (4) Designated seed production area(s) which may contain mature plants. The designated seed production area(s) shall be no more than \_\_\_\_\_ square feet, measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries. If the seed production area uses a shelving system, the surface area of each level shall be included in the total square footage calculation;
- (5) Designated pesticide and other agricultural chemical storage area(s); (6) Designated

- holding area for cannabis scheduled for destruction;  
(7) Designated composting area if the licensee will compost plant waste on site; (8) Designated refuse area(s); and  
(9) Water storage location and source information, including the following (all locations shall be noted on the map or diagram with locations also provided as coordinates in either latitude and longitude or the California Coordinate System):  
(A) Sources of water used, including the location of waterbody diversion(s), pump location(s), and distribution system; and  
(B) Location, type, and capacity of each storage unit to be used for cultivation. (b) A pest management plan which shall include, but not be limited to, the following:  
(1) Product name and active ingredient(s) of all pesticides to be applied to cannabis during any stage of plant growth; and  
(2) Integrated pest management protocols including chemical, biological and cultural methods the applicant anticipates using to control or prevent the introduction of pests on the cultivation site.  
(c) A cannabis waste management plan meeting the requirements of Section 8305 of this Chapter.

**Revise Proposed Regulations § 8309 to read:**

§ 8309. Propagation Requirements for Specialty Cottage, Specialty, Small, and Medium Licenses.

- (a) Licensees shall only propagate immature plants for planting at their licensed premises in designated propagation area(s). ~~The propagation area shall be no more than \_\_\_\_\_ % of the licensed canopy area.~~  
(b) Mother plants used for propagation shall be maintained as immature plants and located in the designated propagation area(s).  
(c) Cannabis plants in the propagation area(s) are prohibited from flowering. Should plants in the propagation area begin to flower, the Department shall be notified immediately through the track-and-trace system.  
(d) Licensees shall follow standards of cleanliness required in Section 8306 of this Chapter for the production of immature plants.  
(e) Licensees producing seed for planting at their licensed premises shall do so in designated propagation area(s), ~~provided that the portion of the propagation area(s) containing mature plants for seed production shall be no more than \_\_\_\_\_ square feet in the aggregate, measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries. If such portion uses a shelving system, the surface area of each level shall be included in the total square footage calculation.~~ All plants used for seed production shall be tagged with a unique identifier in accordance with Section 8402 of this Chapter.  
(f) Licensees propagating immature plants for distribution or seed for distribution to another licensee shall obtain a Nursery license.

**Revise Proposed Regulations § 8311 to read:**

§ 8311. Cultivation Requirements for Nurseries.

- (a) Nurseries producing immature plants for distribution may maintain a research and development area for the cultivation of mature plants. All mature plants shall be tagged with a unique identifier as required by Section 8402 of this Chapter. ~~All Nonmanufactured cannabis products derived from these plants that is not utilized in research and development activities on the licensed premises shall be destroyed in accordance with this chapter and prohibited from entering the commercial distribution chain without the appropriate cultivation license.~~  
(b) Licensees shall only conduct research and development on the premises in designated areas identified in their Cultivation Plan approved by the Department.  
(c) Nurseries producing seed for distribution shall tag all mature plants as required by

Section 8402 of this Chapter. ~~All Nonmanufactured cannabis products derived from these plants shall be destroyed in accordance with this chapter or prohibited from entering the commercial distribution chain without the appropriate cultivation license.~~

**Revise Proposed Regulations § 8400 to read:**

§ 8400. Record Retention.

The provisions of this section apply to all cultivators licensed by the Department. For the purposes of this Chapter, the term record includes: all records, applications, reports or other supporting documents required by the Department.

- (a) Each licensee shall keep and maintain the records listed in subsection (e) for at least 7 years from the date the document was created.
- (b) Records shall be kept in a manner that allows the records to be immediately produced for the Department ~~or and other state and local agencies enforcing this chapter or local ordinances~~ at the licensed premises.
- (c) All records related to commercial cannabis activity are subject to inspection by the Department ~~and other state and local agencies enforcing this chapter or local ordinances.~~
- (d) A licensee may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the licensee of its responsibilities under this section.
- (e) Each licensee shall maintain all of the following records on the licensed premises or at a different location identified by the licensee and approved by the Department ~~and the local jurisdiction~~, including but not limited to:
  - (1) Department issued cultivation license(s);
  - (2) Cultivation Plan;
  - (3) All records evidencing compliance with the environmental protection measures required in Sections 8313, 8314, and 8315 of this Chapter;
  - (4) Any supporting documentation for data or information input into the track-and-trace system;
  - (5) Financial records, including but not limited to, bank statements, tax records, invoices, and sales receipts;
  - (6) Personnel records, including each employee's full name, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable;
  - (7) Training records, including but not limited to the content of the training provided and the names of the employees that received the training;
  - (8) Contracts with other state licensed medical cannabis businesses;
  - (9) Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity;
  - (10) Security records; and
  - (11) Records associated with the composting or disposal of cannabis waste.
- (f) All required records shall be prepared and retained in accordance with the following conditions: (1) Records shall be legible; and
  - (2) Records shall be stored in a secured area where the records are protected from debris, moisture, contamination, hazardous waste, fire and theft.