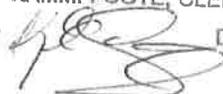


FILED

SEP 02 2016

INYO CO. CLERK
KAMMI FOOTE, CLERK

BY:  DEPUTY



Office:
180 Grand Ave, Suite 1405
Oakland, CA 94612
(510) 986-1851
www.horizonh2o.com

Transmittal

| | | |
|---------------------------------|---|-----------------------------|
| Date: | August 30, 2016 | |
| To: | County Clerk | |
| From: | Michael Stevenson Horizon Water and Environment, LLC 180 Grand Avenue, Suite 1405 Oakland, CA 94612 | |
| Subject: | NOP for the Medical Cannabis Cultivation Program | |
| Method of Transmission: | <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Overnight <input type="checkbox"/> Courier | |
| Purpose of Transmission: | <input type="checkbox"/> Per your request <input type="checkbox"/> For your review <input type="checkbox"/> For your information or use <input checked="" type="checkbox"/> Other: for your posting and distribution | |
| Items Being Transmitted: | Quantity | Description |
| | 1 | Notice of Preparation (NOP) |

Enclosed is the NOP for the California Department of Food and Agriculture’s (CDFA’s) Medical Cannabis Cultivation Program. Because the Program will be implemented statewide, CDFA is sending copies of the NOP to clerks in each of the 58 California counties. In addition, as a State agency, CDFA is filing this NOP with the Governor’s Office of Planning and Research CEQA Clearinghouse, and so is only requesting that your office post the notice, and not file it. CDFA will also be paying any Fish and Game filing fees to the Clearinghouse and not county clerks.

Please post the document for public review on Thursday, September 1, 2016 through at least until September 30, 2016, at which time the 30-day public review period concludes.

Written comments should be sent to:

California Department of Food and Agriculture
Attn: Amber Morris
Medical Cannabis Cultivation Comments
1220 N Street, Suite 400
Sacramento, CA 95814

Or via email to mccp.peir@cdfa.ca.gov

Subject Line: Medical Cannabis Cultivation Program Comments

Notice of Preparation

To: Responsible, Federal and Trustee Agencies From: California Department of Food and Agriculture

(Agency) _____

(Address) _____

1220 N Street, Suite 400

Sacramento, CA 95814

Subject: **Notice of Preparation of a Draft Subsequent Environmental Impact Report**

The California Department of Food and Agriculture (CDFA) is the lead agency and is preparing a Program Environmental Impact Report (PEIR) for the project identified below. CDFA would like input from your agency and interested members of the public regarding the scope and content of the environmental information that is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency may need to use the PEIR prepared by the CDFA when considering any permit or other approval related to the proposed project.

The project description, location, and potential environmental effects are contained in the attached materials. A copy of the initial study is **is not** attached.

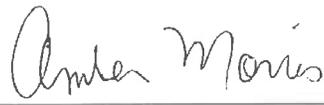
Because of the time limits mandated by state law, your response must be sent at the earliest possible date but not later than 30 days after receipt of this notice.

Please send your response to Amber Morris at the address above. Please include your name or the name of a contact person in your agency.

Project Title: Medical Cannabis Cultivation Program

Project Applicant, if any: n/a

Date: September 1, 2016

Signature: 

Title: Branch Chief

Telephone: (916) 263-0801

Email: mccp.peir@cdfa.ca.gov

Reference: Cal. Code Regs., tit. 14, (CEQA Guidelines) Sections 15082, subd. (a), 15103, 15375.

1. Introduction

In late 2015, the State Legislature passed, and Governor Brown signed into law, the Medical Cannabis Regulation and Control Act (Act). This Act, consisting of three separate bills (Assembly Bills 243 and 266, and Senate Bill 643), outlines a new structure for regulation and enforcement of medical cannabis production and use in California. The Act addresses issues such as cultivation, manufacture of cannabis products, quality control and inspection, distribution, dispensaries, and prescriptions for patients. The Act establishes new licensing procedures for various aspects of the production process. Marijuana is currently a Schedule 1 controlled substance under federal law. Individuals engaging in cannabis cultivation and other activities risk prosecution under federal, state, or local law.

The Act identifies a number of state agency responsibilities, including tasking the California Department of Food and Agriculture (CDFA) with licensing medical cannabis cultivation, as well as establishing a “track and trace” system, which involves development of a unique identifier for each plant, a reporting system, fees, and documents the transport path of plants from cultivation to distribution as a medicinal cannabis product.

In compliance with the Act’s requirements, CDFA is developing regulations to establish a licensing program for medical cannabis cultivation and establish a track and trace system. These are collectively referred to as the Medical Cannabis Cultivation Program (MCCP), Program, or Proposed Program. CDFA is preparing a Program Environmental Impact Report (PEIR) to provide the public, responsible agencies, trustee agencies, and permitting agencies with information about the potential environmental effects associated with the adoption and implementation of these statewide regulations. The PEIR will be prepared by CDFA in accordance with the provisions of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. CDFA will be the lead agency pursuant to CEQA and will consider comments from responsible and trustee agencies, property owners, and interested persons and parties regarding the scope and content of the environmental information to be included in the PEIR.

2. Program Description

2.1 Program Area

The Program would occur in various locations within the state of California at licensed medical cannabis cultivation sites, and at sites implementing the track and trace system.

2.2 Program Purpose

The overall purpose of CDFA’s Program is to establish a regulatory licensing program that would ensure that medical cannabis cultivation operations would be performed in a manner that protects the environment, cannabis cultivation workers, and the general public from the individual and cumulative effects of these operations, and fully complies with all applicable laws. An additional Program purpose is to establish a track and trace program to

ensure the movement of medical marijuana items are tracked throughout the production chain.

2.3 Program Objectives

The regulations will be developed to achieve the following objectives:

- Establish minimum requirements for indoor, outdoor, and mixed light medical cannabis cultivation operations that must be achieved by cultivators in order to obtain a cultivation license from CDFA;
- Establish a limit on the quantity of licenses issued for the Type 3, 3A, and 3B cultivation categories;
- Ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability;
- Ensure that cultivation will not negatively impact springs, riparian wetlands, and aquatic habitats;
- Require that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters;
- Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license;
- Prescribe standards for the reporting of information as necessary related to unique identifiers;
- Establish a scale of application, licensing, and renewal fees, based upon the cost of administering and enforcing the Program; and
- Develop a cultivation checklist tool that can be used by CDFA, other agencies, and local governments to evaluate environmental impacts of cannabis cultivation license programs.

2.4 Preliminary Regulations

A table of contents and an outline of CDFA's preliminary regulations are attached to this notice.

3. CEQA Process

3.1 Notice of Preparation

This Notice of Preparation (NOP) presents general background information on the Program, the scoping and larger CEQA process, and the environmental issues to be addressed in the PEIR. CDFA has prepared this NOP pursuant to CEQA Guidelines section 15082.

3.2 Scoping Workshops

In order for the public and regulatory agencies to have an opportunity to ask questions and submit comments on the scope of the EIR, public scoping workshops will be held during the NOP review period. Because the Statewide Program is a “project of statewide, regional, or areawide significance,” the scoping workshops will be conducted in eight different locations throughout the State. The scoping workshops will solicit input from the public and interested public agencies regarding the nature and scope of environmental impacts to be addressed in the Draft EIR.

All eight workshops will use the same format and interested parties may attend one or all meetings. Oral comments will be noted and considered at the workshops, and written comments will be accepted both during the workshops as well as anytime during the 30-day scoping period. Comment forms will be available at the scoping workshops for those who wish to submit written comments during or at the workshop.

The dates, times, and exact locations of the public scoping workshops are scheduled for:

- September 13th 2016, 4 – 7 PM
Sacramento Convention Center
1400 J Street, Room 202
Sacramento, CA 95814
- September 14th 2016, 4 – 7 PM
Red Lion Hotel
(Sierra Room)
1830 Hilltop Drive
Redding, CA 96002
- September 15th 2016, 4 – 7 PM
Red Lion Hotel
(Pacific Room)
1929 4th Street
Eureka, CA 95501
- September 20th 2016, 4 – 7 PM
Oakland Marriott
(Skyline Room)
1001 Broadway
Oakland, CA 94607
- September 21st 2016, 4 – 7 PM
Courtyard by Marriott
(Grand Ballroom)
1605 Calle Joaquin
San Luis Obispo, CA 93405
- September 22nd 2016, 4 – 7 PM
Harris Ranch
(Garden Ballroom)
24505 West Dorris Ave
Coalinga, CA 93210
- September 27th 2016, 4 – 7 PM
Pasadena Convention Center
(Ballroom F)
300 East Green Street
Pasadena, CA 91101
- September 28th 2016, 4 – 7 PM
Miracle Springs Resort and Spa
(Mirage Ballroom)
10625 Palm Drive
Desert Hot Springs, CA 92240

This scoping workshop information has also been published in Eureka Times Standard, Redding Record Searchlight, Sacramento Bee, San Francisco Chronicle, San Luis Obispo Tribune, Fresno Bee, Los Angeles Times, Riverside Press Enterprise and CDFA’s website (www.cdfa.ca.gov/is/mccp).

3.3 Draft PEIR

The primary purpose of a PEIR is to analyze and disclose the reasonably foreseeable direct and indirect environmental impacts that may occur as a result of the Program. The Draft PEIR, as informed by public and agency input through the scoping period, will analyze and disclose the potentially significant environmental impacts associated with the Program and, where any such impacts are significant, identify potentially feasible mitigation measures and alternatives that substantially lessen or avoid such effects will be identified and discussed.

Below is a preliminary list of potential environmental issues to be addressed in detail in the PEIR. The analysis in the Draft PEIR ultimately will determine whether these impacts are reasonably foreseeable, whether they are significant based on identified thresholds of significance, and whether they can be avoided or substantially lessened by potentially feasible mitigation measures and alternatives.

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation and Traffic
- Tribal Cultural Resources
- Utilities and Service Systems
- Cumulative Impacts
- Irreversible Impacts

3.4 Public Review of the Draft PEIR

Once the Draft PEIR is completed, it will undergo public review for a minimum of 45 days. CDFA is also planning to hold public workshops during this public review period. The date, time, and exact location of the public workshops will be made available prior to the events.

3.5 Final PEIR

Written and oral comments received in response to the Draft PEIR will be addressed in a Response to Comments document which together with the Draft PEIR will constitute the Final PEIR. The Final PEIR, in turn, will inform CDFA's exercise of discretion as a lead agency under CEQA in deciding whether to approve the Program.

4. Submittal of Scoping Comments

This NOP is being circulated to local, state, and federal agencies, and to interested organizations and individuals who may wish to review and comment on the Program or the Draft PEIR at this stage in the process. In addition, the NOP is available for review at the CDFA's offices and on CDFA's internet website (www.cdfa.ca.gov/is/mccp). Written comments concerning the scope and content of this PEIR are welcome.

Consistent with the time prescribed by State law for public review of an NOP, your response to and input regarding the project should be sent at the earliest possible date, but **not later than September 30, 2016**. Please include your name, address, and contact number for your agency as applicable for all future correspondence related to the Program. Written comments may be sent via email or letter to:

California Department of Food and Agriculture
Attn: Amber Morris
Medical Cannabis Cultivation Comments
1220 N Street, Suite 400
Sacramento, CA 95814

Email: mccp.peir@cdfa.ca.gov
Subject Line: Medical Cannabis Cultivation Program Comments

PUBLICATION DATE: September 1, 2016

Signature: _____



Amber Morris

Attachment: Table of Contents and Outline of Preliminary Regulations

CALIFORNIA CODE OF REGULATIONS
TITLE 3. FOOD AND AGRICULTURE
DIVISION 8. Cannabis Cultivation
CHAPTER 1. Medical Cannabis Cultivation Program

Article 1. Definitions

§ 8000. Definitions X

Article 2. Applications for Cultivation Licenses

§ XXXX. General Application Information for Cultivation Licenses X

§ XXXX. Application Requirements for Cultivation Licenses X

§ XXXX. Incomplete Applications. X

§ XXXX. Application Processing Fee Schedule X

§ XXXX. Application Payment Method X

Article 3. Licensing

§ XXXX. License Types. X

§ XXXX. License Allowances and Constraints X

§ XXXX. License Denial and Appeal Process. X

§ XXXX. Petition of License Denial..... X

§ XXXX. License Renewal..... X

§ XXXX. License Fee Schedule X

Article 4. Cultivator Requirements

§ XXXX. Requirements for All License Types.. X

§ XXXX. Requirements for Indoor License Types..... X

§ XXXX. Requirements for Mixed Light License Types..... X

§ XXXX. Requirements for Outdoor License Types..... X

§ XXXX. Requirements for Cannabis Nurseries X

Article 5. Track and Trace Requirements

§ XXXX. Unique Identifiers X

§ XXXX. Tracking System X

§ XXXX. Reporting Requirements..... X

Article 6. Inspections

§ XXXX. Inspections Requirements X

Article 7. Enforcement

§ XXXX. License Violations..... X

§ XXXX. Administrative Hold Procedure..... X

§ XXXX. Voluntary Surrender of Cannabis or Cannabis Product X

§ XXXX. Completed Investigations. X

§ XXXX. Minor, Moderate, or Serious Violations..... X

§ XXXX. Appeal Process..... X

Cannabis is a Schedule I drug pursuant to the Controlled Substance Act 21 U.S.C. § 812. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by State law.

Medical Cannabis Cultivation Program Outline of Draft Regulations

Below is a detailed outline of the draft regulations to implement the Medical Cannabis Cultivation Program (MCCP), including licensing and “track and trace” program elements. Where necessary, the regulations will restate statutory requirements from the Medical Cannabis Regulations and Safety Act (MCRSA) for clarity.

DEFINITIONS: In addition to the statutory definitions provided by MCRSA, the MCCP will define the following terms:

- Canopy
- Flowering
- Immature
- Mixed-light cultivation
- Premises
- Propagate

APPLICATIONS FOR CULTIVATION LICENSES:

- **General Application Information for Cultivation Licenses** – Includes where to find application form, how to submit, and references sections for application component requirements and fees.
- **Application Requirements:** Licensees will have to provide the following, at a minimum, in order to be considered for a license:
 - ✓ 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, and related California Environmental Quality Act (CEQA) documentation
 - ✓ 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, and details regarding the method of compliance with applicable MCCP environmental requirements
 - ✓ Proof of the legal right to occupy the proposed cultivation site
 - ✓ Proof of a bond in the amount of \$25,000
 - ✓ If applicable, copy of a valid Fish and Game Code section 1602 lake or streambed alteration agreement or written verification from the Department of Fish and Wildlife that an agreement is not required
 - ✓ If applicable, approval of water diversion and water rights
 - ✓ If applicable, a certificate of rehabilitation for a conviction

Applicants will also need 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
- ✓ Comply with prohibition of weapons and firearm at the cultivation site
- ✓ 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

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- **Incomplete Applications** – Inform applicants if application is incomplete and provide a time-frame to submit missing information.
- **Application Processing Fee Schedule** – Provide fee requirements when submitting applications. This fee will be non-refundable and will pay for resources necessary to process applications.
- **Application Pay Method** – Specify the accepted method of payments and location(s) where payments can be made.

LICENSING:

License Types: Specifies license types as follows:

| License Types | | | |
|----------------------|--|--|---|
| Category | Outdoor (no artificial light) | Indoor (exclusively artificial light) | Mixed-light (combo of natural & supplemental artificial light) |
| Specialty Cultivator | 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 |
| Small Cultivator | Type 2 5,001 - 10,000 sq ft | Type 2a 5,001 - 10,000 sq ft | Type 2b 5,001 - 10,000 sq ft |
| Cultivator | 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 |
| Nursery | Type 4 Up to one acre | Type 4 Up to one acre | Type 4 Up to one acre |

- **License Allowances and Constraints** –
 - ✓ Clarifies allowable license combinations.
 - ✓ Multiple cultivation licenses may be obtained by one applicant, but total canopy cannot exceed four acres.
- **License Denial** – Failure to comply with application requirements will result in MCCP denying the license.
- **Petition of License Denial** – Procedure by which the decision to deny the license can be reviewed; must file the petition within 30 days.
- **License Renewal** – Cannabis cultivation licenses must be renewed annually. Renewal applications must be received 100 days prior to expiration of license.
- **License Fee Schedule** – Fees will be based on license type, fees have not yet been determined.

CULTIVATION REQUIREMENTS:

- **Requirements for All License Types** –
 - ✓ Environmental Management Measures and Best Management Practices: Any relevant environmental management measures and best management practice requirements included in the regulations, or determined by the environmental impact report (EIR), shall be included in a license for cultivation.
 - ✓ Water: Requires compliance with applicable principles, guidelines and requirements established by the State Water Resources Control Board.
 - ✓ Waste Discharges: Requires compliance with applicable general orders issued by the Regional Water Quality Control Boards or State Water Resources Control Board, or in regions where no general order exists, individual Waste Discharge Requirements from the applicable Regional Water Quality Control Board.

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- ✓ Wildlife (aquatic): Requires compliance with Department of Fish and Wildlife guidelines and laws to ensure that individual and cumulative effects of water diversion and discharge of cannabis cultivation operations do not affect instream flows needed for fish spawning, migration and rearing.
 - ✓ Wildlife (general): Requires compliance with the California Endangered Species Act, including possession of an Incidental Take Permit from the Department of Fish and Wildlife, if the cultivation operation has the potential to result in “take” of a species listed as threatened or endangered.
 - ✓ Pesticides: Requires the Department of Pesticide Regulation (DPR) 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. Use of pesticides may be further limited based on the EIR.
- **Indoor License Types** – Lighting, building, ventilation requirements as determined necessary and feasible to mitigate environmental impacts by the EIR.
 - **Mixed Light License Types** – Additional requirements as determined necessary and feasible by the EIR.
 - **Outdoor License Types** - Additional requirements as determined necessary and feasible by the EIR.
 - **Cannabis Nurseries** - Additional requirements as determined necessary and feasible by the EIR.

TRACK & TRACE PROGRAM:

- **Unique Identifiers** – Every plant greater than 8 inches in height must receive a unique identifier. The M CCP, in collaboration with several departments, is still determining the form of the unique identifier.
- **Tracking System** – The M CCP shall implement a system for tracking unique identifiers; licensees shall report movement of cannabis through the tracking system.
- **Reporting Requirements** – Specific information including but not limited to quantity, weight, variety, estimated times of departure and arrival, licensee receiving product, and transaction date are required.

INSPECTIONS:

- Inspections include review of records and inspection of the cultivation site(s); identifies site safety conditions for inspection, inspection hours; specifies time frame in which records must be provided.

ENFORCEMENT:

- **License Violations** – CDFA will have two years from the date of the violation within which to bring an administrative action to suspend, revoke or other disciplinary action for the violation.
- **Administrative Hold Procedure** – To prevent the destruction of evidence, diversion, and threats to public safety, cannabis or cannabis products may be placed under a hold. Licensees shall segregate the items on hold so that they are secure.
- **Voluntary Surrender of Cannabis or Cannabis Product** – Procedure allowing licensee to surrender cannabis or cannabis products prior to the completion of an investigation. The

cannabis or cannabis products surrendered will be destroyed. Does not waive a licensee's right to a hearing.

- **Completed Investigations** – Upon completing an investigation, CDFA shall determine if the violation occurred and if so, what the appropriate penalty should be.
- **Minor, Moderate, Serious violations** – The MCCP will provide for penalties to be assessed based on the severity of a violation of license requirements or other regulatory provisions. Penalties will range from fines to license suspension or revocation.
- **Appeal Process** – Licensees will have 30 days to appeal any violation issued. Appeals shall be submitted to CDFA's Office of Hearings and Appeals. Licensees may request a formal hearing. Formal hearings will be conducted by a hearing officer designated by CDFA. A decision shall be issued within 14 days after the conclusion of the hearing.