

## Revised Notice of Preparation

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

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 (Agency)

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 1220 N Street, Suite 400

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 (Address)

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 Sacramento, CA 95814

**Subject: Revised Notice of Preparation of a Draft Program Environmental Impact Report**

On September 1, 2016, the California Department of Food and Agriculture (CDFA) issued a Notice of Preparation (NOP) in accordance with the State CEQA Guidelines (14 California Code of Regulations [CCR] Section 15082) to inform agencies and interested parties that a program environmental impact report (PEIR) would be prepared for the medical cannabis cultivation licensing program identified below. As a result of new legislation, CDFA has expanded its Proposed Program to include additional activities. This Revised NOP has been released to provide sufficient information about the current version of the Proposed Program and its potential environmental impacts, in order to allow agencies and interested parties the opportunity to provide a meaningful response related to the scope and content of the PEIR, including mitigation measures that should be considered and alternatives that should be addressed.

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 program EIR prepared by the CDFA when considering any permit or other approval related to the proposed project.

The program 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:** CalCannabis Cultivation Licensing program

**Project Applicant, if any:** n/a

Date: April 27, 2017

Signature: 

Title: Branch Chief

Telephone: (916) 263-0801

Email: calcannabis.peir@cdfa.ca.gov

# 1. Introduction

In late 2015, the State Legislature passed, and Governor Brown signed into law, the Medical Cannabis Regulation and Control Act (MCRSA). MCRSA, 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. Its provisions address issues such as cultivation, processing, manufacture of medical cannabis products, quality control, testing, inspection, transportation, distribution, and dispensing of medical cannabis. In compliance with MCRSA's requirements, CDFA has begun developing regulations for the licensing of commercial medical cannabis cultivation, as well as establishing a "track-and-trace" system to establish a chain of custody for cannabis and cannabis products. On September 1, 2016 CDFA issued a NOP for 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 governing commercial medical cannabis cultivation.

On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalizes the use and possession of non-medical cannabis products within California by adults ages 21 years and older. Similar to MCRSA, AUMA regulates the cultivation, processing, manufacture of cannabis products, quality control, testing, inspection, and retail sale of non-medical cannabis. As with medical cannabis, CDFA is tasked with developing regulations for the cultivation of commercial non-medical cannabis and implementing a track-and-trace system for monitoring the movement of these products.<sup>1</sup>

Both statutes designate a number of other State agencies and their applicable responsibilities for oversight of cannabis commerce. Under both MCRSA and AUMA, the Bureau of Medical Cannabis Regulation (BMCR)<sup>2</sup> under the Department of Consumer Affairs has primary responsibility for the licensing of distributors, dispensaries, retailers, and transporters of cannabis and cannabis products. The California Department of Public Health (DPH), running the Office of Manufactured Cannabis Safety, oversees manufacturing of cannabis and cannabis products. Under MCRSA, BMCR oversees testing laboratories, while under AUMA, this responsibility rests with DPH. A number of other sister agencies have responsibilities for various aspects of the MCRSA and AUMA regulatory programs; these agencies include the Department of Pesticide Regulation, the State Water Resources Control Board, the Regional Water Quality Control Boards, and the California Department of Fish and Wildlife.

The CDFA licensing program, which will issue licenses for both medical and non-medical commercial cannabis cultivation, and establish the track-and-trace system, is collectively referred to as the CalCannabis Cultivation Licensing program (Program or Proposed Program). CDFA is therefore expanding the scope of its PEIR to include its activities for both medical and adult use (non-medical) commercial cannabis cultivation. 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

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<sup>1</sup> Marijuana is currently a Schedule 1 controlled substance under federal law. Individuals engaging in cannabis cultivation and other activities risk prosecution under federal law.

<sup>2</sup> Note that AUMA updates the name of BMCR to the "Bureau of Marijuana Control," although BMCR has not yet changed its name in response to AUMA.

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 commercial 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 commercial 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. An additional Program purpose is to establish a track-and-trace system to ensure the movement of cannabis and cannabis products is 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 commercial cannabis cultivation operations that must be achieved by cultivators in order to obtain a cultivation license from CDFA;
- For medical cannabis cultivation, 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 Draft Regulations

CDFA's draft regulations governing medical cannabis cultivation and track-and-trace system will be available at the following website (anticipated to be available beginning April 28<sup>th</sup>, 2017):

<http://cannabis.cdfa.ca.gov/>

A draft of CDFA's regulations governing adult use (non-medical) cannabis cultivation and track-and-trace system have not been finalized as of the time of this Revised NOP. In order to meet the requirement under AUMA that CDFA's adult use licensing program be operational by January 1, 2018, CDFA intends to adopt emergency regulations for the non-medical portion of the Proposed Program. They will be largely similar to the draft medical cannabis regulations, especially with respect to aspects of the Proposed Program that could have significant effects on the environment. The text of AUMA, which will guide the regulations, can be found here:

[https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20\(Marijuana\)\\_1.pdf](https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20(Marijuana)_1.pdf)

## 3. CEQA Process

### 3.1 Notice of Preparation

An NOP was previously circulated to provide general background information on the Program as related to commercial medical cannabis cultivation, the scoping and larger CEQA process, and the environmental issues to be addressed in the PEIR. The prior notice was prepared pursuant to CEQA Guidelines section 15082. The scoping period occurred between September 1 and September 30, 2016.

### 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 PEIR, CDFA held a series of public scoping workshops during the initial NOP review period. The scoping workshops were conducted in eight different locations throughout the State, from September 13, 2016 to September 28, 2016. The scoping workshops solicited input from the public and interested public agencies regarding the nature and scope of environmental impacts to be addressed in the Draft PEIR.

A summary of the comments received at the scoping workshops and during the scoping period is available in the Proposed Program's Scoping Report, available here:

<https://static.cdfa.ca.gov/MCCP/document/Medical%20Cannabis%20Scoping%20Report%20-%20January%202017.pdf>

### 3.3 Notice of Preparation

This Revised 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 Revised NOP pursuant to CEQA Guidelines section 15082.

### 3.3 Draft PEIR

The primary purpose of an EIR 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 and discuss potentially feasible mitigation measures and alternatives that substantially lessen or avoid such effects.

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 Revised 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 Revised NOP is available for review at the CDFA's offices and on CDFA's internet website (<http://calcannabis.cdfa.ca.gov/>). 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 May 26, 2017**. Please include your name, address, affiliation, and contact number 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  
CalCannabis Cultivation Licensing  
1220 N Street, Suite 400  
Sacramento, CA 95814

Email: [calcannabis.peir@cdfa.ca.gov](mailto:calcannabis.peir@cdfa.ca.gov)  
Subject Line: CalCannabis Cultivation Licensing program Comments

PUBLICATION DATE: April 27 2017

Signature:   
Amber Morris