

**Department of Cannabis Control
California Code of Regulations Title 4, Division 19**

Final Statement of Reasons

Subject Matter of Proposed Regulations: Conversion to Large and Medium Cultivation Licenses; Type 5, 5A, and 5B Large Cultivation License Fees and Requirements.

Sections Affected: California Code of Regulations (CCR), title 4, sections 15006, 15014.2, 15027.1, 16201.1, and 16300.1.

Background

The Department of Cannabis Control (Department) regulates commercial cannabis license holders in California, including cultivators, retailers, manufacturers, distributors, testing laboratories, microbusinesses, and temporary cannabis events.

Pursuant to Business and Professions Code section 26061, subdivision (c), the Department may begin issuing Type 5, 5A and 5B Large Cultivation Licenses (collectively referred to herein as Large Cultivation or Type 5 Large Cultivation License) on January 1, 2023. The proposed regulations implement the introduction of this newly available license type into the existing commercial cannabis licensing framework by establishing fees and requirements for the Large Cultivation License.

Additionally, CCR, title 4, section 16209 prohibits a person or owner from holding more than one Medium Cultivation License until January 1, 2023. As a result, licensees will have more opportunity to hold licenses with more expansive cultivation areas on one premises, rather than several smaller cultivation licenses on different premises to equal the same size cultivation area. The proposed regulations contain the process for cultivation licensees to convert licenses with smaller cultivation limits into a Large or Medium Cultivation License.

On June 17, 2022, the Department issued a Notice of Proposed Rulemaking and began a 45-day comment period on the proposed regulations. The Department held a virtual public hearing on August 1, 2022. The Department received comments, both oral and written, on the proposed regulations. Based on review of the comments received, the Department determined that there were several sufficiently related changes to the proposed regulations that were necessary to clarify certain sections and provisions. This included clarification regarding the information that must be submitted as part of a conversion request and clarification regarding the licensing restrictions for large cultivation licenses found in Business and Professions Code section 26061, subsection (d).

Pursuant to Government Code section 11346.8, subdivision (c) and CCR, title 1, section 44, the Department made substantive and sufficiently related changes to the proposed regulations and circulated them to the public for a comment period of at least 15 days

Final Statement of Reasons

Conversion to Large and Medium Cultivation Licenses
Type 5, 5A, and 5B License Fees and Requirements

(8/30/2022 15-day comment period) beginning on August 30, 2022, and ending on September 15, 2022.

On November 29, 2022 the Department withdrew the proposed regulation package from Office of Administrative Law consideration pursuant to Government Code section 1149.3, subdivision (c).

Pursuant to Government Code section 11346.8, subdivision (c) and CCR, title 1, section 44, the Department made substantive and sufficiently related changes to the proposed regulations and circulated them to the public for an additional comment period of at least 15 days (12/5/2022 15-day comment period) beginning on December 5, 2022, and ending on December 21, 2022.

Updated Informative Digest

There have been no substantial changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

As authorized by Government Code section 11346.9, subdivision (d), the Department hereby incorporates the Initial Statement of Reasons prepared in this rulemaking. Unless a specific basis is stated for any modification to the regulations as initially proposed, the necessity for the adoption of new regulations as set forth in the Initial Statement of Reasons continues to apply to the regulations as adopted.

All modifications from the initially proposed text of the regulations are summarized below.

Modifications Made Available for a 15-Day Comment Period

Section 15006. Premises Diagram

Subsection (h)(5) has been amended to include large licenses within the types of licenses that must provide a premises diagram that includes the information contained in subsection (h)(5). This amendment is necessary to clarify the requirements in proposed section 15027.1, subsection (a)(4). Proposed section 15027.1, subsection (a)(4) requires that a licensee seeking conversion to a large or medium license must provide the Department with “a diagram of the proposed premises that meets the requirements of section 15006.” The proposed amendment to section 15006 ensures that it is clear that the premises diagram requirements applicable to other cultivation license types are also applicable to large cultivation licenses.

Subsection (h)(6) has been amended to change the term “Mixed Light” to “Mixed-light” wherever the term appears within the proposed section. This amendment is necessary for clarity and consistency. The amendment is intended to reduce potential confusion by ensuring that the same term is used consistently throughout the division. The term has been amended to appear identical to the term Mixed-light as it appears in the definitions established in section 15000, subsection (ss).

Final Statement of Reasons

Conversion to Large and Medium Cultivation Licenses
Type 5, 5A, and 5B License Fees and Requirements

Section 15014.2. Fees – Large Cultivation License

The term “Mixed Light” has been amended to “Mixed-light” wherever the term appears within the proposed section. This amendment is necessary for clarity and consistency. The amendment is intended to reduce potential confusion by ensuring that the same term is used consistently throughout the division. The term has been amended to appear identical to the term Mixed-light as it appears in the definitions established in section 15000, subsection (ss).

Section 15027.1. Conversion to Large and Medium Cultivation Licenses

Proposed subsection (b) has been amended to add the term “eligible licensee.” This amendment is necessary for clarity. The amendment clarifies who may request a conversion by submitting the required information to the Department. The proposed amendment does not change the substance of the proposed subsection. Lastly, the Initial Statement of Reasons (ISOR) stated that proposed subsection (b)(5) requires that licensees provide a copy of the cultivation plan that meets the requirements of section 26309. The number of the section referenced in the ISOR contains a typo and should have been listed as section 16309 as this is the section that contains requirements for cultivation plans and 26309 is not an existing section of the Department’s regulations.

Proposed subsection (c) has been removed. This Department has identified the information needed for a conversion in subsection (b). Therefore, the Department has determined that this provision is not necessary.

Proposed subsections (d), (e), and (f) have been renumbered to accommodate the removal of proposed subsection (c).

Section 16201.1. Large Cultivation Licenses

Subsection (a)(3) has been amended to change the “Mixed Light” to “Mixed-light” wherever the term appears within the proposed section. This amendment is necessary for clarity and consistency. The amendment is intended to reduce potential confusion by ensuring that the same term is used consistently throughout the division. The term has been amended to appear identical to the term Mixed-light as it appears in the definitions established in section 15000, subsection (ss).

Section 16300.1. Additional Cultivation Requirements for Large Licenses

The title of proposed section 16000.1 has been changed to add the word “Additional.” This amendment is necessary for clarity. The requirements of Article 2 are applied to all cultivation sites. The provisions in proposed subsection 16300.1 are additional requirements that apply to large cultivation licenses on top of all other existing cultivation site requirements. Adding the word “Additional” to the title of the proposed section reduces the risk of a reader potentially interpreting the requirements of proposed section 16300.1 to be the only cultivation site requirements applicable to large cultivation licenses.

Final Statement of Reasons

Proposed subsection (a) has been removed. This amendment is necessary for clarity. The requirements that are applicable to cultivation activities are applicable to large cultivation licenses. It is not necessary to restate this requirement in this proposed section.

Proposed subsections (b) and (c) have been renumbered to accommodate the removal of proposed subsection (a).

Proposed subsection (a) has been amended to replace “the holder of,” with “a person who holds an ownership or financial interest in.” The proposed subsection clarifies the restriction found in Business and Professions Code section 26061, subsection (d) which says in part that commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license. The Department determined that this statutory limitation is important to prevent the conflicts of interest that arise when one licensee controls a large portion of the supply chain, such as would be the case if a licensee had licenses allowing for large-scale cultivation and distribution, or when one licensee is responsible for testing or conducting impartial quality assurance review on products they produced. The Department has determined that preventing such conflicts of interest is important to maintaining the integrity of the commercial cannabis supply chain, thus the Department found it necessary to clearly specify that for purposes of this section, the holder of a license is a person who holds an ownership or financial interest in a license.

Proposed new subsection (b) has also been amended to further clarify that the applicant or licensee must submit an attestation that all persons who hold an ownership or financial interest in the large cultivation license do not currently hold any ownership or financial interest in a Type 8, Type 11, or Type 12 license and that no person who will hold an ownership or financial interest in the large cultivation license will apply for or hold an ownership or financial interest in a Type 8, Type 11, or Type 12 license while maintaining their ownership or financial interest in the large cultivation license. The substance of this section has not changed; however, the revisions are necessary to provide additional clarity regarding the requirement for submission of the attestation. The requirement for applicants or licensees to submit an attestation allows the Department better ability to ensure compliance with the statutory requirements found in Business and Professions Code section 26061, subsection (d).

Local Mandate Determination

The proposed regulations do not impose a mandate on local agencies or school districts.

Incorporation by Reference

No documents have been incorporated by reference.

Final Statement of Reasons

Conversion to Large and Medium Cultivation Licenses
Type 5, 5A, and 5B License Fees and Requirements

Summary and Response to Relevant Comments Received During 45-Day Comment Period

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
15027.1	1	<p>Commenter indicates that Type 5 license regulations do not explicitly mention a requirement that licensee must obtain local authorization to convert from a medium cultivation license to a large cultivation license.</p>	<p>The Department disagrees with this comment. The proposed regulations explicitly require that all Type 5 large cultivation licensees comply with all cultivation requirements applicable to other cultivation license types. These requirements include that the Department may not issue a license if it would violate any local ordinance or regulation adopted under Business and Professions Code (BPC) section 26200 applicable to commercial cannabis activity. As the requirement is contained in BPC section 26055, the Department has determined that it is not necessary to explicitly include local authorization as a specific requirement for Type 5 large cultivation licenses.</p>
16300.1	2, 21, 42, 61, 63, 83	<p>Commenters indicate that the restriction preventing a licensee from obtaining both a Type 5 license and a Type 11 distributor license can easily be circumvented. Therefore,</p>	<p>The Department disagrees with the comment. The restriction on a licensee holding a Type 5 large cultivation license and a</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		commenter requests that the restriction be removed. Additional commenters indicate that prohibition on holding both a Type 11 distributor license and a Type 5 large license is too restrictive and negatively affects businesses.	Type 11 distribution license is found in BPC section 26061, subdivision (d). As the restriction is explicitly in statute, the Department does not have the authority to remove the restriction.
15027.1	7	Commenter indicates that the conversion process does not require the Department to confirm that the licensee has received the appropriate local approval for the size of the cultivation premises being issued a Type 5 license. Commenter suggests requiring that the Department obtain confirmation from the local authority regarding the size of the licensee's cultivation site.	The Department disagrees with this comment. The proposed regulations explicitly require that all Type 5 large cultivation licensees comply with all cultivation requirements applicable to other cultivation license types. These requirements include that the Department may not issue a license if it would violate any local ordinance or regulation adopted under BPC section 26200 applicable to commercial cannabis activity. As the requirement is contained in BPC section 26055, the Department has determined that it is not necessary to explicitly include local authorization as a specific requirement for Type 5 large cultivation licenses.
15027.1	9, 24	Commenters indicate that the language of the regulations is	The Department disagrees with this

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		<p>contradictory as the regulations state that no fee is applicable to licensees who convert existing cultivation licenses to a single large cultivation license, but the regulations also indicate that a fee must be paid for applicants submitting an application for a new large cultivation license.</p>	<p>comment. As indicated in the proposed regulation, there is no fee for a conversion. There is a fee for application for a new license. Conversion and application for a new license are separate processes, and licensees for conversion have already paid an application fee for the license that will be converted.</p>
15027.1	10, 25	<p>Commentors indicate that the language of the Notice of proposed regulation is unclear regarding which licenses may be converted into an annual large cultivation license, a provisional medium cultivation license, or an annual medium cultivation license.</p>	<p>The Department disagrees with this comment. The requirements for conversion are provided in proposed section 15027.1. Additionally, all other requirements for the type of license requested in the conversion still apply.</p>
15027.1	11, 12, 26, 27, 69, 84	<p>Commentor indicates that there currently is no process for converting existing licenses aside from applying for a new license to replace an existing license. Commenter requests that an option for conversion be created. One commenter cites an email from the Department dated July 25, 2022, which indicates that the only process for converting is to apply for a new license and surrender the existing license.</p> <p>Another commenter states that they hope DCC will apply</p>	<p>The Department disagrees with this comment. Proposed section 15027.1 provides for a process for converting licenses to medium or large cultivation licenses. The process is proposed at this time and has not yet taken effect. Conversions of other license types, such as from Mixed-light to Outdoor, are outside the scope of this rulemaking, however</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		the conversion process to other types of cultivation licenses. Commenter points to recent regulatory changes to the parameters of Outdoor and Mixed-light licenses and hopes the conversion process will be available to licensees wishing to convert from Mixed-light to Outdoor.	the Department notes commenter's suggestion.
15027.1	13, 28	Commentor requests including a conversion timeline in the regulations for conversions to large and medium cultivation licenses.	The Department disagrees with this comment. Due to the nature of each conversion request requiring unique information for processing, and some aspects of the requests may be outside of the control of the Department. Therefore, the Department believes it would not be appropriate to include a timeline within the regulation.
15027.1	19, 20, 43	Commentors request that the regulations clarify whether the greenhouse cultivation, nursery operations, and processing activities can all be engaged in under a single large cultivation license.	The Department disagrees with this comment. The proposed regulations explicitly state that Type 5 large cultivation licenses are subject to all the rules pertaining to other cultivation license types. Therefore, the premises requirements for Type 5 large cultivation licenses would be the same as those premises requirements

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
			that apply to other cultivation licenses.
15027.1	22	Commenter suggests amending the proposed regulation to explicitly state that a licensee may only convert existing contiguous licensed cultivation sites into a medium or large licensed cultivation premises.	The Department disagrees with this comment. The proposed regulations explicitly state that Type 5 large cultivation licenses are subject to all the rules pertaining to other cultivation license types. Therefore, the premises requirements for Type 5 large cultivation licenses would be the same as those premises requirements that apply to other cultivation licenses. The Department has determined that it is not necessary to explicitly include that provision in the proposed section.
15027.1	23	Commenter suggests explicitly including requirements from BPC section 26055(G): "If the applicant provides a license, permit, or other authorization from the local jurisdiction where the licensed premises is located expressly authorizing the proposed conversion, the Department shall notify the local jurisdiction in accordance with Section 15002. If an applicant does not provide a license, permit, or other authorization from the local jurisdiction	The Department disagrees with this comment. The proposed regulations explicitly require that all Type 5 large cultivation licensees comply with all cultivation requirements applicable to other cultivation license types. These requirements include that the Department may not issue a license if it would violate any local ordinance or

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		<p>where the licensed premises is located expressly authorizing the proposed conversion, the Department will follow the process and timelines set forth in subdivision (g)(2) of Section 26055 of Business and Professions Code."</p>	<p>regulation adopted under BPC section 26200 applicable to commercial cannabis activity. As the requirement is contained in BPC section 26055, the Department has determined that it is not necessary to explicitly include local authorization as a specific requirement for Type 5 large cultivation licenses. Moreover, not all conversion requests will require the same level of local authorization verification that is required for a new license application.</p>
15014.2	34, 59, 82	<p>Commenter recommends measuring licensing fees for large cultivation by acreage rather than by square footage. Acreage measurement is consistent with large scale agriculture and will allow large operators to better scale their production. Specific Commenter recommends accessing a licensing fee of \$640 per additional acre instead of \$640 per additional 2,000 square feet.</p>	<p>The Department disagrees with this comment. All other cultivation licensing fees are determined on a square foot basis. The same measurement is applied to Type 5 large cultivation licenses for consistency in fees between cultivation license types. Additionally, the proposed fee schedule reflects the regulatory costs associated with the increase in size of the commercial cannabis operation.</p>
15014.2	36	<p>Commentors request the option to have licensee fees</p>	<p>The Department disagrees with this</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		paid through a payment plan rather than a single fee that must be paid up front.	comment. License fees for all other licenses are required to be paid prior to the issuance of the license. This same requirement is applied to Type 5 large cultivation licenses for consistency amongst license types.
16201.1	37	Commentor suggests allowing a single large cultivation license to cover a cultivation site that spans multiple parcels of land. Property lines should not be used to establish separate licenses.	The Department agrees with this comment. The proposed regulations do not prohibit a Type 5 large cultivation licensed premises from containing multiple parcels of land so long as all requirements are met.
16201.1	38	Commenter requests the repeal of the Type 5 large cultivation license as the license supports larger cultivation businesses and harms smaller businesses.	The Department disagrees with this comment. The Type 5 large cultivation license is established in BPC section 26050. Authority to begin issuing large cultivation licenses on January 1, 2023, is found in BPC section 26061. The Department does not have the authority to repeal these statutory sections.
15027.1	39	Commenter requests for cultivators to have the ability to merge and convert similar licenses into a single license that does not exceed 1 acre. This would result in cultivators holding a single license that would potentially allow the cultivator to operate both	The Department agrees with this comment in part. The proposed regulation allows a licensee to convert smaller licenses into a medium license. Additionally, the proposed regulation

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		<p>mixed light and outdoor grows on the same licensed premises while allowing for the licensee to change cultivation methods throughout the year. Commenter also requests carrying over the pro-rated license fees that have been paid to the new merged/converted license.</p>	<p>contains a provision that allows for proration for the value of days remaining on licenses being converted. The proposed regulation package contains provisions related to the introduction of the Type 5 large cultivation license and change in the restrictions regarding medium cultivation licenses but does not propose changes to the types of licenses based on cultivation method contained in BPC section 26050.</p>
15027.1	41	<p>Commenter indicates that it is unclear whether holders of multiple licenses are required to convert into a large cultivation license or whether they can maintain the multiple licenses.</p>	<p>The Department disagrees with this comment. The proposed regulation indicates that a licensee may request a conversion and does not require any licensee to convert their licenses. Conversion is purely optional for all licensees. The Department lacks the statutory authority to require a licensee to hold a Type 5 large cultivation license, rather than multiple smaller licenses.</p>
15027.1	44	<p>Commenter requests guidelines for prospective Type 5 licensees to better understand the process to</p>	<p>The Department has noted the commenter's comment.</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		help alleviate confusion at the local level.	
15027.1	45	Commenter indicates that it is unclear whether cultivation licenses that start expiring in early 2023 would have to be withdrawn/expired at that time if they are ineligible for Type 5 conversion, or if they could wait until the latest cultivation license expiration date to be withdrawn/expired.	The Department disagrees with this comment. The proposed regulations do not require any licensee to convert their licenses. Conversion is purely optional for all licensees. Licensees who choose not to convert their licenses, may continue to hold their licenses in accordance with all applicable laws.
16201.1	46	Commenter requests that the square footage of the license be printed on the Type 5 license itself. This will assist local jurisdictions in verifying a licensee's canopy size.	The Department disagrees with this comment. The Department's licenses do not currently contain the canopy size of each license and the Department believes that, at this time, the Type 5 large cultivation licenses should not contain this information for consistency. Additionally, this information is already available to local jurisdictions upon request.
16201.1	47	Commenter indicates that it is unclear if a licensee who holds multiple Tier 1 and Tier 2 licenses will be able to convert to Tier 1 and Tier 2 Type 5 licenses.	The Department disagrees with this comment. As provided in proposed section 15014.2, Tier 1 and Tier 2 mixed light licenses are available for Type 5 large cultivation

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
			<p>licenses. A licensee converting existing Tier 1 or Tier 2 mixed light licenses into a Type 5 large cultivation license would follow the conversion requirements found in proposed section 15027.1. As with all other cultivation licenses, a single cultivation license cannot be both mixed light Tier 1 and mixed light Tier 2 simultaneously.</p>
15027.1	48	<p>Commenter indicates that it is unclear whether licensees transitioning from a provisional license must convert to a Type 5 large license.</p>	<p>The Department disagrees with this comment. The proposed regulation indicates that a licensee may request a conversion and does not require any licensee to convert their licenses. Conversion is purely optional for all licensees. The Department lacks the statutory authority to require a licensee to hold a Type 5 large cultivation license, rather than multiple smaller licenses. The proposed regulations do not require provisional licensees to convert to annual licenses before requesting a conversion to a large or medium license. However,</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
			licensees are still subject to all requirements regarding the issuance of a large or medium cultivation license.
16300.1	49	Commenter indicates that it is unclear whether the "holder of a large cultivation license" refers to an individual or a business entity.	The Department disagrees with this comment. As with all the Department's licenses, the holder is the individual or entity that is issued the license by the Department.
15027.1	50	Commenter indicates that the proposed regulations do not indicate whether a provisional cultivation license may be converted into an annual Type 5 large cultivation language or whether the existing cultivation licenses must first be converted from a provisional to an annual cultivation license before the existing licenses may be converted into a large cultivation license. Commenter suggests explicitly allowing for a one step conversion from a provisional license to an annual large cultivation license.	The Department disagrees with this comment. The proposed regulations do not require provisional licensees to convert to annual licenses before requesting a conversion to a large or medium license. However, licensees are still subject to all requirements regarding the issuance of a Type 5 large or medium cultivation license. This includes that the Department may only issue annual Type 5 large cultivation licenses.
15027.1	51, 53, 55, 56, 70, 85	Commenters request that the ability to convert from an existing cultivation license to a different cultivation license type be expanded from only applying to large and medium cultivation licenses, to	The Department disagrees with this comment. The proposed regulation package contains provisions related to the introduction of the Type

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		<p>applying to all cultivation license types. For example, a mixed light Tier 1 license could be converted to an outdoor cultivation license. Commenter also requests that the practice of carrying the prorated license fees paid for the existing license to the newly converted license be applied to all conversions. One commenter requests the ability to convert a license at the time of renewal rather than requiring the licensee to reapply.</p>	<p>5 large cultivation license and change in the restrictions regarding medium cultivation licenses. Additionally, the proposed regulation contains a provision that allows for proration for the value of days remaining on licenses being converted.</p> <p>The Department agrees in part with the comment regarding conversion at the time of renewal. The proposed regulations do not require that conversions be completed at a specific time. Under the proposed regulations, a licensee may request for conversion to coincide with the renewal period so long as the licensee meets all the requirements for conversion and renewal.</p>
16201.1	52, 54, 57, 71, 73, 74, 75, 76, 77, 80	<p>Commenters request that the Department delay the issuing of large cultivation licenses to a date later than January 1, 2023, as the businesses who were intended to be supported by temporary licensure and priority review have not yet been able to establish themselves due to shifts in regulations and market</p>	<p>The Department disagrees with this comment. The Type 5 large cultivation license is established in BPC section 26050. Authority to begin issuing Type 5 large cultivation licenses on January 1, 2023, is found in BPC section 26061. The</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		<p>conditions. One commenter expresses concern for the reduction in licensing fees collected by the Department. One commenter specifies a concern for the environmental impacts and how the proposed regulations may negatively impact the land, agricultural resources, and rural communities.</p>	<p>Department does not have the authority to repeal these statutory sections. The Department has determined that the reduction in license fees collected by the Department will not negatively impact the Department’s ability to effectively operate. Large cultivation licenses are still subject to all of the environmental laws applicable to all other cultivation license types. The issuance of new large cultivation licenses and conversion of existing licenses to large or medium cultivation licenses would be subject to all existing environmental protection laws. The proposed regulations would not change the applicability of environmental protection laws to new large license or converted licenses.</p>
15027.1	62	<p>Commenter requests additional clarity regarding whether the Department will begin accepting applications for conversions and notifying licensees of conversions prior to January 1, 2023.</p>	<p>The Department disagrees with this comment. BPC section 26061 prohibits the issuance of a Type 5 large cultivation license prior to January 1, 2023. The Department does not have the</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
			authority to begin issuing any Type 5 large cultivation licenses prior to that date.
15027.1	64	<p>Commenter requests clarification regarding plant tagging requirements following the conversion of a license. Specifically, whether licensees will be able to use plant tags from the previous license for cannabis plants held by the new converted license. Additionally, commenter expresses concern that 30 days provided in the regulations will not be enough time to order new tags, receive new tags, and re-tag every plant under the newly converted license. Commenter suggests providing 60 days for licensees who have converted their license to comply with track and trace requirements following the conversion.</p>	<p>The Department disagrees in part with this comment. The proposed regulations do not require licensees who have converted their licenses to comply with all post-conversion track and trace requirements within 30 days. The Department will communicate directly with each licensee regarding the post-conversion track and trace requirements for their specific license.</p>
15027.1	65	<p>Commenter recommends extending the period to pay the converted license from 30 days after the notification to 60 days after the notification.</p>	<p>The Department disagrees with this comment. Licensee fees are required to be paid within 30 days. For consistency, the Department believes it is appropriate to require the fee for the converted license within the same time period.</p>
15027.1	72	<p>Commenter indicates that the regulation does not specify how often a medium or large cultivation can increase or decrease their canopy size.</p>	<p>The Department disagrees with this comment. The proposed regulation package contains</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
		<p>Commenter would like the ability to increase or decrease the canopy size as needed for the upcoming period.</p>	<p>provisions related to the introduction of the Type 5 large cultivation license and change in the restrictions regarding medium cultivation licenses. The proposed regulation package does not include provisions related to adjusting a cultivator's canopy size during the licensed period, which is a separate process.</p>
16201.1	87	<p>Commenter suggests placing a maximum size limit on large cultivation licenses.</p>	<p>The Department disagrees with this comment. Unlike other cultivation licenses, the statutory language does not provide a maximum size limit for the Type 5 large cultivation license. The statute also does not provide a limit to the number of large licenses that a licensee may obtain. The Department does not currently have a statutory basis for placing a maximum size restriction on large cultivation licenses.</p>
15027.1	68	<p>Commenter requests a process to convert an existing cultivation license into a smaller cultivation license type in order to provide flexibility to cultivation licensees who are not utilizing the entire footprint of their existing license.</p>	<p>The Department has noted your comment. The purpose of the proposed regulation package is to facilitate the introduction of the Type 5 cultivation license and the removal of the limit placed on</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 45-Day Comment Period	Department Response
			medium cultivation license. The creation of a conversion process for cultivation licenses aside from large and medium license is outside of the scope of this specific proposed regulation package.
16201.1	88	<p>Commenter asserts that Proposition 64 intended to establish a cultivation system based on small and medium sized businesses which has not materialized. Commenter states DCC should think about why the small and medium sized cultivation sector is not thriving and about countervailing efforts to support small and medium sized cultivators. Commenter states they urge the State to consider taking measures to bolster the cultivation sector to ensure that smaller cultivators can survive and thrive. Commenter recommends the State consider price and quality controls, such as through an allotment system, to ensure that the State licenses as much as California can consume, and that farmers are not hit with crises of overproduction. Commenter recommends the State pause and assess what might be done to ensure a more diversified cannabis cultivation sector.</p>	<p>The Department disagrees with this comment. The Type 5 large cultivation license is established in BPC section 26050. Authority to begin issuing large cultivation licenses on January 1, 2023, is found in BPC section 26061. The Department does not have the authority to repeal these statutory sections. Additionally, the Department does not have authority to establish an allotment system to cap the amount of cannabis produced within the state as recommended by commenter. Such a system is beyond the Department’s authority and would require legislative amendments.</p>

Final Statement of Reasons

Summary and Response to Nonrelevant Comments Received During 45-Day Comment Period

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 45-Day Comment Period	Department Response
Taxes	3	Commenter indicates that taxes are too high and indicates that the 30% tax rate should be adjusted to 10%.	While not on the proposed action, the Department notes the commenter's suggestion. The Department does not have the authority to create regulations regarding the collection of taxes. CDTFA is the department responsible for promulgating regulations regarding the collection of taxes by commercial cannabis licensees.
Cannabis Advisory Committee	4	Commenter indicates that a more diverse array of Cannabis Advisory Committee members is needed, including individuals who are cannabis users or members of cannabis collectives. Commenter expresses their desire to be a member of the Cannabis Advisory Committee.	While not on the proposed action, the Department notes commenter's suggestion.
Discounts / Advertising	5	Commenter suggests that consumers who may purchase medicinal cannabis should be eligible for a discount and licensees who falsely advertise such discounts which are not honored, should be fined, and shut down.	While not on the proposed action, the Department notes the commenters suggestion. The Department does not regulate retailer prices; such prices are considered a business decision for the licensee to determine. However,

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 45-Day Comment Period	Department Response
			Department licensees are responsible for complying with all applicable laws and regulations, including those related to false advertising.
Protection of People and Environment	6	Commenter does not provide any information and instead asks for information regarding the actions being taken by the Department to protect people and the environment.	While not on the proposed action, the Department notes commenters' suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
	8	Commenter does not provide any information. Comment only includes a single question mark.	This comment provides no information or context which would allow the Department to formulate a substantive response.
Outdoor Medium Size Limit	14, 29	Commenters suggest changing the maximum size limit for an outdoor medium cultivation license from 1 acre (43,560 sq. ft.) to 44,000 sq. ft. or 43,500 sq. ft. This would make it simpler for medium cultivation licensees to place structures on their cultivation site.	While not on the proposed action the Department notes commenters' suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
Fallowing	15, 30	Commenters suggest that cultivation licenses be provided a process for fallowing a portion of the licensed premises, resting a portion of the cultivation premises to allow for improvement of soil health, and allowing cultivators to	While not on the proposed action the Department notes commenters' suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 45-Day Comment Period	Department Response
		identify rotational plots.	
Premises	16, 17, 31, 32	Commenters suggest allowing a licensee who holds multiple cultivation licenses to process cannabis at any of the licensed premises for any of the cultivation licenses held without needing to obtain a processing license.	While not on the proposed action the Department notes commenters' suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
Multiple Licenses	18, 33	Commenter suggests prohibiting businesses that do not already hold a commercial cannabis license from obtaining a new commercial cannabis license. Commenter also requests prohibiting existing cultivation licensees from expanding their cultivation operations.	While not on the proposed action the Department notes commenters' suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
15048.4	35, 60, 81	Commenters request the elimination of the requirement that each individual cannabis plant be tagged with an RFID enabled plastic tag. The current requirements result in added costs and is harmful for the environment.	While not on the proposed action the Department notes commenters' suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
Small Businesses	40	Commenter indicates that not enough is being done to protect small cannabis businesses and combat the illegal market.	While not on the proposed action the Department notes commenter's suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
OSHA Requirement	58	Commenter requests a change to the OSHA employee training	While not on the proposed action the Department notes

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 45-Day Comment Period	Department Response
		requirements due to the difficulty in getting certification. Commentor recommends a California based safety certification requirement in its place.	commenter's suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
General	66, 67	Commenter does not provide specific comments for the regulation package. Commenter provides general comments regarding the state of the industry, including the difficulty small businesses are experiencing in competing with larger businesses, restrictions on cannabis cooperative associations, the ability for large operators to engage in vertical licensing, and producer's inability to sell directly to consumers.	While not on the proposed action the Department notes commenter's suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
Small Businesses	78	Commenter requests that the Department make more of an effort to transition the medical market into the regulated industry. The current economic climate and wildfires have been very challenging for small cannabis businesses.	While not on the proposed action the Department notes commenter's suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.
Small Businesses	79	Commenter indicates that the microbusiness does not help small farmers.	While not on the proposed action the Department notes commenter's suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 45-Day Comment Period	Department Response
Federal Law	86	Commenter expresses concern regarding a federal bill that would classify cannabis as a pharmaceutical, not agriculture. This would result in cultivators losing their agricultural culture and a change in regulating agencies.	While not on the proposed action the Department notes commenter's suggestion and looks forward to working with stakeholders on the development of policies for future rulemakings.

Summary and Response to Relevant Comments Received During the 8/30/2022 15-Day Comment Period

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
15027.1	7	Commenter indicates that regulation section is not clear regarding whether conversion allows a licensee to increase their square footage.	The Department disagrees with this comment. The proposed regulation section is clear regarding this issue. Extending the size of the licensed premises to include areas that have not previously been licensed would not qualify for conversion and would require a new license application.
15014.2	15	Commenter requests changing the large cultivation licensee fee structure to allow for up to 40 acres for \$13,990 and then a \$640 fee for each additional acre after that in order to be more consistent with traditional agriculture.	The Department disagrees with this comment. All other cultivation licensing fees are determined on a square foot basis. The same measurement is applied to Type 5 large cultivation licenses for

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
		<p>Commenter disagrees with the 2,000 square foot increments used in determining license fees.</p>	<p>consistency in fees between license types. Additionally, the proposed fee schedule reflects the regulatory costs associated with the increase in size of the commercial cannabis operation.</p>
16300.1	17	<p>Commenter believes that the restriction preventing large cultivation licensees from holding Type 11 distribution license will lead to greater consolidation and moving the industry backwards.</p>	<p>Comment noted by the Department. The restriction on a licensee holding a Type 5 large cultivation license and a Type 11 distribution license is found in BPC section 26061, subsection (d). As the restriction is explicitly in statute, the Department does not have the authority to remove the restriction. The Department believes that the proposed amendments to the regulation section clarifies the statutory provision and is in line with the intent of the restriction found in BPC section 26061, subsection (d).</p>
16300.1	18, 20	<p>Commenter indicates that the amendments to section 16300.1 which clarifies that owners and financial interest holders of large cultivation licenses are prohibited from applying for and holding a Type 8, Type 11, or Type 12 license goes beyond the</p>	<p>The Department disagrees with this comment. The Department believes that the proposed amendments to the regulation section clarifies the statutory provision and is in line</p>

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
		language of the statute which indicates that licensees are prohibited from holding these other license types.	with the intent of the restriction found in BPC section 26061, subsection (d).
15027.1	21	Commenter requests that licensees who obtain a large cultivation license not be required to re-tag all plants in the middle of a harvest cycle. Commenter recommends allowing licensees to utilize existing plant tags from previous licenses and only require new tags for newly cultivated plants following the conversion.	The Department agrees with this comment. The proposed regulations do not explicitly require licensees who convert into a medium or large license to immediately re-tag all their existing plants. The Department plans to work with licensees regarding the appropriate plant tagging requirements following a conversion.
16300.1	22	Commenter indicates that the restriction on owners, and financial interest holders of a large cultivation license also obtaining a type 8, type 11, or type 12 license will reduce investment into the industry, eliminate some operators from being able to obtain a large cultivation license, and prevent some operators from achieving economies of scale. Commenter adds that the restriction does not provide a discernable benefit to the state.	Comment noted by the Department. The restriction on a licensee holding a Type 5 large cultivation license and a Type 11 distribution license is found in BPC section 26061, subsection (d). As the restriction is explicitly in statute, the Department does not have the authority to remove the restriction. The Department believes that the proposed amendments to the regulation section clarifies the statutory provision and is in line with the intent of the restriction found in BPC section 26061,

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
			subsection (d).

Summary of Nonrelevant Comments Received During the 8/30/2022 15-Day Comment Period

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
Licenses	1	Commenter requests that the Department rescind all large and medium cultivation licenses. Large corporations are not struggling, and the success of large growers is harming small cultivators.	While not on the proposed action, the Department notes commenter's comment and looks forward to working with stakeholders on the development of policies for future rulemakings. Large and medium licenses are created in the Medicinal and Adult-Use Cannabis Regulation and Safety Act. The Department does not have the authority to rescind these license types.
Licenses	2, 3	Commenters request that the Department immediately reduce the size of cultivation sites and cap cultivation licenses to prevent harming small vulnerable communities	While not on the proposed action, the Department notes commenters' comment and looks forward to working with stakeholders on the development of policies for future rulemakings. The allowable canopy sizes for cultivation licenses is found in Medicinal and Adult-Use Cannabis

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
			Regulation and Safety Act. The Department does not have the authority to alter these allowable cultivation sizes.
Fees	4	Commenter is requesting a break on license fees for cultivation.	While not on the proposed action, the Department notes commenter's comment regarding license fees and looks forward to working with stakeholders on the development of policies for future rulemakings.
Time off	5	Commenter is requesting the ability to take a year off for health or family reasons.	While not on the proposed action, the Department notes commenter's comment regarding the ability to take time off from cultivating and looks forward to working with stakeholders on the development of policies for future rulemakings.
Fees	6	Commenter indicates that removing the fees from distribution on flower and trim only benefits the retail and distribution licensees and does not benefit farmers.	While not on the proposed action, the Department notes commenter's comment and looks forward to working with stakeholders on the development of policies for future rulemakings.
Type 5 large cultivation licenses	8	Commenter requests that the department wait to allow large cultivation licenses until supply and demand in the state balances out.	While not on the proposed action, the Department notes commenter's comment and looks forward to working with

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
			stakeholders on the development of policies for future rulemakings. The authority for large and timing of its availability is found in Medicinal and Adult-Use Cannabis Regulation and Safety Act. The Department does not have the authority to rescind these license types.
License Types	9	Commenter indicates that there is no method for small cultivators to change license types or sizes.	While not on the proposed action, the Department notes commenter's comment regarding the ability to change license types and looks forward to working with stakeholders on the development of policies for future rulemakings.
Furlough	10	Commenter requests a furlough program for small cultivators that will allow them to pause cultivation.	While not on the proposed action, the Department notes commenter's comment regarding the ability to change license types and looks forward to working with stakeholders on the development of policies for future rulemakings.
Environment	11	Commenter indicates that small cultivators engage in more environmentally friendly practices when compared to large cultivation operations.	While not on the proposed action, the Department notes commenter's comment and looks forward to working with stakeholders on the

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
			development of policies for future rulemakings.
Limit Cultivation	12	Commenter requests a cap be placed on indoor cultivation and cultivation in general.	While not on the proposed action, the Department notes commenter’s comment and looks forward to working with stakeholders on the development of policies for future rulemakings. The allowable canopy sizes for cultivation licenses is found in Medicinal and Adult-Use Cannabis Regulation and Safety Act. The Department does not have the authority to alter these allowable cultivation sizes.
New License Type	13	Commenter proposes creating a new cultivation license type that requires light greenhouse structures, prohibits mixed light, prohibits light deprivation, prohibits heaters, and has similar size options as existing outdoor cultivation licenses. Commenter also proposes allowing the license to be obtained by associations with 49% foreign funds.	While not on the proposed action, the Department notes commenter’s comment regarding a new license type and looks forward to working with stakeholders on the development of policies for future rulemakings.
15048.4	16	Commenter requests that the requirements for individual plant tagging be removed to reduce costs and waste.	While not on the proposed action, the Department notes commenter’s comment regarding plant tagging and looks forward to

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 8/30/2022 15-Day Comment Period	Department Response
			working with stakeholders on the development of policies for future rulemakings.
Questions	19	Commenter indicates that the Department lacks proactive communication leaving operators struggling due to uncertainty. Commenter requests an opportunity to submit a list of questions for which the Department will provide a list of answers.	While not on the proposed action, the Department notes commenter's comment and looks forward to working with stakeholders on the development of policies for future rulemakings.

Summary and Response to Relevant Comments Received During the 12/5/2022 15-Day Comment Period

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 12/5/2022 15-Day Comment Period	Department Response
15027.1	2	Commenter requests the ability to convert existing cultivation licenses into other cultivation license types. For example, converting an existing small indoor cultivation license into a specialty indoor cultivation license, a nursery license, or a processing license. This would provide cultivators with added flexibility and potentially increase the number of harvests per year.	The Department has noted the comment. The proposed regulation package is intended to facilitate the introduction of the large cultivation license type and the removal of the restrictions on medium licenses. Additional types of license conversions unrelated to large and medium cultivation licenses are outside of the scope of this specific proposed regulation package.
16201.1	3	Commenter states that there is no place for Type 5	The Department disagrees with the

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 12/5/2022 15-Day Comment Period	Department Response
		cultivation licenses in the economy, market, or the environment. Commenter indicates that the introduction of the type 5 cultivation license will have a negative impact on local economies and the existing industry over-saturation. Commenter also indicates that the introduction of type 5 licenses will further exacerbate the environmental issues posed by climate change and water shortages.	comment. The introduction of the Type 5 cultivation license is required in statute. The Department does not have the authority to prevent the introduction of type 5 cultivation licenses as suggested by the commentor.
16300.1	4, 6	Commenter requests that a license that has been fallowed be eligible for conversion to medium or large license. Commenter also indicates that the timeline for conversion is 5-7 months which may make it difficult for a cultivator to be able to plant in time for the cultivation season.	The Department has noted the comment. The proposed regulations do not prohibit a cultivation license that has been fallowed from being converted into a large or medium license. However, to convert a license, all requirements for conversion found in the proposed regulations must be complied with. The proposed regulations require that a licensee have at least one active license to request a conversion. Under the proposed regulations, a license that has been made inactive by the licensee may not be eligible for conversion. Licensees who are not

Final Statement of Reasons

Section of Regulation	Comment Numbers	Summary of Relevant Comments Received During 12/5/2022 15-Day Comment Period	Department Response
			eligible for a conversion may apply for a new large or medium license. The proposed regulations do not provide a 5 to 7-month timeline for conversion.
16300.1	5	Commenter states that the restriction on holding both a large cultivation license and distribution license is too wide of a net. Commenter suggests not applying the restriction to financial interest holders. Commenter also indicates that the proposed restriction increases the workload for the Department.	The Department disagrees with this comment. BPC section 26061, subsection (d) explicitly prohibits a licensee from holding both a large cultivation license and a type 11 license. The Department has determined that the proposed regulations are the most effective method of implementing the ownership limitations imposed by the statute. Any increased labor due to enforcement of this requirement incurred by the Department is necessary to comply with the statutory restrictions.

Summary of Nonrelevant Comments Received During the 12/5/2022 15-Day Comment Period

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 12/5/2022 15-Day Comment Period	Department Response
Regulations	1	Commenter requests that the Department quit the	While not on the proposed action, the

Final Statement of Reasons

Conversion to Large and Medium Cultivation Licenses
Type 5, 5A, and 5B License Fees and Requirements

Section of Regulation	Comment Numbers	Summary of Nonrelevant Comments Received During 12/5/2022 15-Day Comment Period	Department Response
		useless and troublesome rules and regulations and that medical cannabis regulation under proposition 215 was more effective.	Department notes commenter’s comment and looks forward to working with stakeholders on the development of policies for future rulemakings. The Department notes that the Department is required by state law to regulate the adult-use and the medicinal cannabis industries. The Department does not have the authority to cease from developing regulations that are required under statute as requested by the commenter.

Alternatives That Would Lessen the Adverse Economic Impact on Small Business

No alternative proposed to the Department that would lessen any adverse economic impact on small businesses were rejected by the Department.

Alternatives Determination

The Department determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The amendments adopted by the Department are the only regulatory provisions identified by the Department that accomplish the goal of providing applicants and licensees with clear guidance regarding the cultivation license conversion process and the requirements for obtaining and operating under a large cultivation license.

Final Statement of Reasons