



**COUNTY OF MENDOCINO  
CANNABIS DEPARTMENT**

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DATE: September 26, 2023  
TO: Cannabis Department Staff/ Contract Planning Staff  
FROM: Steve Dunicliff, Interim Director Mendocino Cannabis Department  
RE: Internal Procedure #03 - California Department Fish and Wildlife (CDFW) Referral  
Timing Requirement

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PREVIOUS POLICY

None.

PURPOSE

The Mendocino County Cannabis Department (the "**Department**") provides the following memorandum to clarify an ambiguity within Mendocino County Code Chapter 10A.17 ("**MCC**") regarding required referrals to external agencies during the Cannabis Cultivation Business License ("**CCBL**") application review process.

DEFINITIONS

"**Cannabis Cultivation Business License**" or "**CCBL**" means a business license issued to persons engaged in the cultivation of cannabis in Mendocino County pursuant to this Chapter.

"**Department**" means the Mendocino County Cannabis Department or the authorized representatives thereof, or such other department, division, or representative as designated by the Board of Supervisors.

ORDINANCE SECTIONS

**Sec. 10A.17.090 - CCBL Application and Zoning Review.**

Any person or entity that wishes to engage in the cultivation of cannabis shall submit an application for a CCBL to the Department. Applications for CCBL's shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Department. The application shall be reviewed by the Department and other agencies as described herein and renewed annually. Any referral to or consultation with an agency other than the County of Mendocino shall state that a response must be returned within thirty (30) days of the date of the referral.

**Sec. 10A.17.100(A)(2) - CCBL Review and Issuance.**

Following review by qualified County staff to review proposed permit locations and identify where habitat suitable for sensitive species may exist. The County shall consult with the California Department of Fish and Wildlife ("**CDFW**") to evaluate if there is a possibility for presence or habitat

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suitable for sensitive species on the parcel with a proposed CCBL location. Upon consultation, CDFW may recommend approval of the proposed development, ask to conduct a site inspection or request additional studies in order to make the determination that no impacts to sensitive species will occur. A cultivator that cannot demonstrate that there will be a less than significant impact to sensitive species will not be issued a CCBL. The County shall develop a policy in consultation with CDFW to define an objective set of criteria that applications can be checked against and when during Phases 1 and 2 a formal referral to CDFW is required to avoid impacts to sensitive species and natural communities. Following the development of the policy referred to in the previous sentence, consultation with CDFW shall not be required but be performed pursuant to the policy. During Phase 3 all applications will be referred to CDFW.

STAFF INTERPRETATION

In accordance with MCC Sec. 10A.17.100(A)(2), the Department must, in certain circumstances, refer applicants to the California Department of Fish and Wildlife ("**CDFW**") for a sensitive species habitat review. The conclusion of that review can produce one of the following three results: (1) approval of the proposed development; (2) a request to conduct a site inspection or additional studies in order to make the determination that no impacts to sensitive species will occur; or (3) a determination that the proposed development does have a significant impact to sensitive species.

To date, the Department has made several referrals to CDFW. However, responses to those referrals have been delayed and, in most instances, responses have not been received within the 30-day timeline provided in MCC Sec. 10A.17.090. Furthermore, MCC Sec. 10A.17.090 is silent on how the Department should proceed when it does not receive responses to referrals within 30 days. As such, there is ambiguity on how the Department should handle delayed responses, and in some instances non-responses, on CDFW referrals.

The Department has determined that the lack of responses, recommendations, or determinations by CDFW cannot unreasonably further delay the County's review process. Therefore, in interpreting and implementing the 30-day timeline for external referrals, if CDFW fails to provide a response within forty-five (45) days, the Department has the discretion to move forward with its review process and issue a CCBL if the other requirements under MCC Chapter 10A.17 are satisfied, and the Department determines that the information available to it adequately demonstrates that there will be a less than significant impact to sensitive species.

AUTHORITY

Policy Approved:



Date: 9/26/23

Steve Dunnycliff, Interim Director, Mendocino Cannabis Department