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To: Current and Prospective AUCP Cultivation Licensees
From: Director John Hudak, Office of Cannabis Policy
Date: October 30, 2023
Subject: Updated Guidance for Measuring Mature Plant Canopy

Background

Earlier this year, the Office of Cannabis Policy (OCP) put out “Guidance for Measuring Mature Plant Canopy”. The meaning of “separated by identifiable boundaries” when determining if a mature plant canopy is considered contiguous or noncontiguous areas has raised additional questions internally and from Adult Use Cannabis Program (AUCP) licensees about how OCP will measure mature plant canopy for outdoor cultivations.

Title 28-B MRS Section 102 (41) defines plant canopy as:

...the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature cannabis plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility, the surface area of each tier or shelf must be included in calculating the area of plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature cannabis plants and seedlings and that are not used by the licensee at any time to cultivate mature cannabis plants.

OCP is providing this updated guidance to provide clarification as to how mature plant canopy of outdoor cultivation facilities will be calculated for contiguous and noncontiguous areas.

Guidance

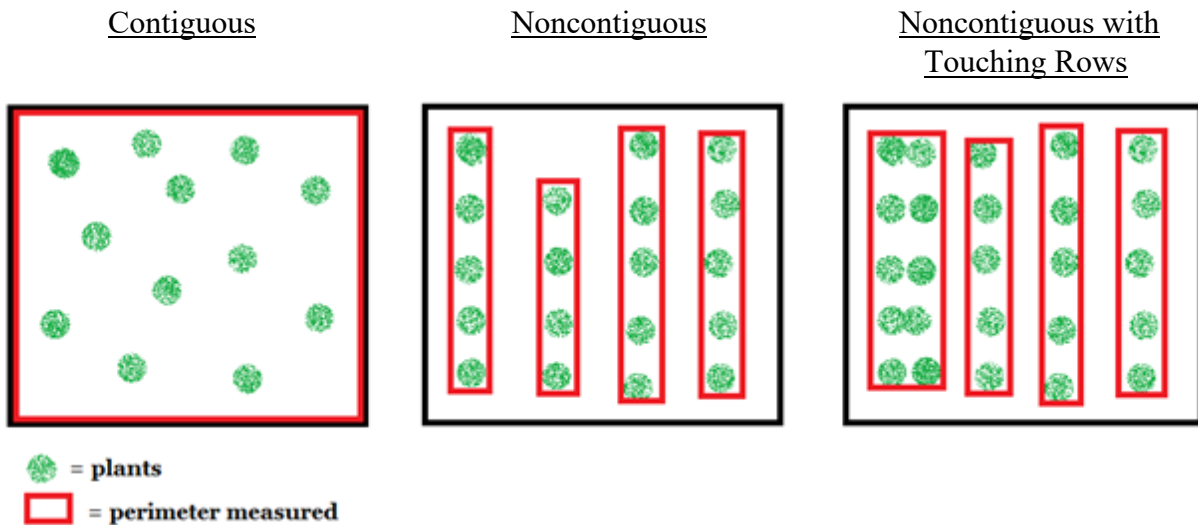
In accordance with 28-B MRS Section 102 (41), mature plant canopy will “...be calculated in square feet and measured using the outside boundaries of the area and must include all the area within the boundaries”, which includes pathways, walkways, and other spaces between plants.

If a licensee’s “...plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries.” Meaning, **if a licensee does not want OCP to include the**

spaces between planted areas when calculating the mature plant canopy, the licensee must separate each planted area in clearly delineated rows. This means that the mature plant canopy of one row cannot touch the mature plant canopy of the next row. If the mature plant canopy touches, the touching rows will be calculated using the outside boundary of the total area, including any pathway between the touching rows.

When measuring noncontiguous mature plant canopy, OCP will measure the row using the width of the largest plant in the row, and the length to the farthest tip of canopy at the end of each row.

Examples:



In the examples above, the contiguous plant canopy area would be calculated as the entire outdoor area since the plants are not in clearly delineated rows. The noncontiguous plant canopy areas would be calculated by measuring the rows of plants that are clearly delineated. Since the plants in first two rows are touching, in the “Noncontiguous with Touching Rows” diagram, the first two rows would be measured as one.

On the licensee’s official plan of record, the facility diagram should include the proposed rows as they will be planted. The total plant canopy provided on the plan of record should indicate the total mature plant canopy being measured as described above. OCP understands that some outdoor cultivation facilities plant in one area of the licensed premises and move to another area of the premises for the next planting season. In this case, the licensees must submit a new plan of record for approval showing where plants will be planted for the coming season, so that the official plan of record on file matches what the facility is doing.

Conclusion

Outdoor cultivation mature plant canopy will be calculated as a contiguous area, measuring the outside boundaries of the planted area unless the licensee has separated noncontiguous areas with

clearly delineated rows. Licensees with questions regarding this guidance should reach out to their assigned Licensing Analyst or Field Investigator, or contact the Licensing Team at Licensing.OCP@maine.gov or the Compliance Team at Compliance.OCP@maine.gov.