

Frequently Asked Cannabis Cultivation Water Rights Questions

(Last Revised December 30, 2020)

What documents do I need from the State Water Board to be eligible for a CalCannabis License?

You need two documents from the State Water Resources Control Board (State Water Board) and Regional Water Quality Control Board (together, Water Boards) to qualify for a California Department of Food and Agriculture (CalCannabis) Cultivation License. First, all commercial cultivators need documentation that they are enrolled under the Cannabis General Order Waste Discharge Requirements (WDRs) or Waiver of WDRs. Second, cultivators who divert surface water also need documentation that they have a valid Cannabis Small Irrigation Use Registration (Cannabis SIUR) or other appropriate water right that allows for storage and irrigation. You will need State Water Board documentation that the source of irrigation water is outside the Division of Water Rights permitting authority if a water right is not required.

Please visit the Water Boards' [Cannabis Cultivation Programs Portal \(Portal\)](https://public2.waterboards.ca.gov/CGO/) (<https://public2.waterboards.ca.gov/CGO/>), to begin your online application for the Cannabis General Order and Cannabis SIUR (if needed) or to obtain exempt water source documentation. The Portal allows you to choose among the most common water sources for cannabis irrigation to help determine if you need a water right from the State Water Board.

Cultivators who were previously enrolled in a Regional Water Quality Control Board Cannabis WDR or Waiver program were required to enroll under the Cannabis General Order by July 1, 2019. Please note that coverage under a WDR program does not provide a water right.

What are the water rights requirements I need to meet for cannabis cultivation?

1. If you divert surface water, including from a spring, stream, river, lake, or subterranean stream, you must have a valid water right, which can include any of the following. Note that for the water right to support cannabis cultivation, the right must specifically include irrigation as a type of use, and must include a diversion to storage season between November 1 and March 31:
 - a. Cannabis Small Irrigation Use Registration: [Streamlined Cannabis Cultivation Water Right](https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_rights.html) (https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_rights.html).
 - b. License or Permit: ([Water Boards Permitting and Licensing Program](https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/)) (https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/).
 - c. Valid Pre-1914 appropriate water right claim

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2. You need to comply with the [Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation \(Cannabis Policy\)](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf) (https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf).

How much does a Cannabis Small Irrigation Use Registration water right cost?

A Cannabis SIUR filing fee is \$750.00 at the time of registration, and an additional \$750.00 fee each subsequent year. For applicants with onstream reservoirs, the filing fee is \$4750 at the time of registration, and an additional \$1000 fee each subsequent year. We accept payment by check, cashier's check, money order, and electronic debit. For more information, please visit the [Water Rights Fees Webpage](https://www.waterboards.ca.gov/resources/fees/water_rights/) (https://www.waterboards.ca.gov/resources/fees/water_rights/).

What time of year will I be allowed to divert water from a stream?

In accordance with the current version of the Cannabis Policy, commercial cannabis cultivators may be able to divert and store surface water from November 1 through March 31, but only if minimum streamflow criteria are met. Cultivators cannot divert surface water from April 1 through October 31 (forbearance season). Instead, you must irrigate using stored water that was diverted during the diversion season. Prior to diverting on any given day, cultivators are required to check the [Online Cannabis Compliance Gage Mapping Tool](https://www.waterboards.ca.gov/water_issues/programs/cannabis/online_mapping_tool.html) (https://www.waterboards.ca.gov/water_issues/programs/cannabis/online_mapping_tool.html).

I have a riparian water right and divert directly from a stream. Is there anything else I need to do?

Yes, you must file for your Cannabis SIUR or find an alternate water source for cultivation. The Cannabis Policy prohibits dry season (April 1 through October 31 or later) diversions for commercial cannabis cultivation. Riparian water rights are a type of right that do not allow for storage; the Cannabis Policy prohibits surface water diversions for cannabis cultivation during specific times of the year, even if you have a riparian right that could be used for irrigation of other types of crops. Therefore, you need to obtain a Cannabis SIUR or other valid appropriate water right that allows you to divert and store water in the winter for irrigation in the dry season.

Please note that Cannabis SIURs are not available in all watersheds. For example, if your Point of Diversion (POD) is on a fully appropriated stream (when there is no longer water available for diversion and use) during the diversion season, water may not be available to issue new water rights. Likewise, state law prohibits surface water diversion for cannabis cultivation on Wild and Scenic Rivers (see question below).

I went to the Water Boards Cannabis Cultivation Programs Portal and was informed that my site is not eligible for a Cannabis SIUR because it is on a Wild and Scenic River. What can I do?

You are not eligible for a Cannabis SIUR if your Point of Diversion (POD) is proposed to be on the main stem of a Wild and Scenic River. This applies to both California or Federally designated Wild and Scenic Rivers. However, you may be eligible if your POD is on a tributary to the Wild and Scenic River. If it is not possible to move the POD, then you need to assess whether an alternative water source is feasible.

The Portal asks if I have a water right I can use for cannabis cultivation. Is my Initial Statement of Diversion and Use (ISDU) a water right?

No. Your ISDU (or supplemental statement of diversion and use) is a form indicating that you are claiming a riparian water right. You need a Cannabis SIUR or other valid appropriative water right to divert and store water for cannabis irrigation. Please see the question above about riparian water rights.

The Portal said my diversion is on a Fully Appropriated Stream. Can I still receive a Cannabis SIUR?

Unfortunately, if your proposed water source is on a Fully Appropriated Stream (FAS) during the diversion season (or on a year-round FAS), you will not be eligible for a Cannabis SIUR. Unlike a Wild and Scenic River, a FAS system includes the main stem stream AND all tributaries to it where hydraulic continuity exists. You will need to obtain a different water source to cultivate commercial cannabis.

I already have an appropriative water right permit or license. Can I use it for cannabis cultivation?

An existing water right permit or license may be used, but irrigation must be listed as a purpose of use. Your existing water right must also allow for diversion to storage overlapping with the Cannabis Policy diversion season – November 1 through March 31. You will need to file and obtain an approved Change Petition to formally change your purpose of use if irrigation is not included. To file a Change Petition, please contact the [Water Rights Petitions Program](https://www.waterboards.ca.gov/waterrights/water_issues/programs/petitions/) (https://www.waterboards.ca.gov/waterrights/water_issues/programs/petitions/).

I have an onstream pond (or dam). Can I use it to divert water for cannabis irrigation?

No new onstream ponds will be permitted for cannabis irrigation. Additional information regarding onstream reservoirs can be found in Attachment A, Section 2, Requirement #79 of the Cannabis Policy. Existing onstream ponds may be used to divert and store water for cannabis irrigation ONLY if any of the following conditions are met:

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1. The cannabis cultivator has an existing water right with irrigation as a designated use, issued prior to October 31, 2017, that authorizes use of an onstream storage reservoir.
2. The cannabis cultivator obtains an appropriative water right permit with irrigation as a designated use prior to diverting water into an onstream storage reservoir for cannabis cultivation. Cannabis cultivators with a pending application or an unpermitted onstream storage reservoir shall not divert for cannabis cultivation until the cannabis cultivator has obtained a valid water right.
 - a. Cannabis cultivators with an unpermitted reservoir that existed prior to October 1, 2016 may file for a Cannabis SIUR and must accept conditions imposed by the Deputy Director (or designee) and CDFW before or after issuance of the Cannabis SIUR as part of the determinations to ensure any modifications and ongoing operation of the onstream reservoir are protective of water quality and aquatic resources.
 - b. The reservoir must have existed prior to July 19, 2006 on Class I or Class II streams in the North Coast Instream Flows Policy Area, which includes all surface waters discharging to the Pacific Ocean from the mouth of the Mattole River, south to San Francisco, and coastal streams entering northern San Pablo Bay. For more information, please visit the [Instream Flows Policy webpage](https://www.waterboards.ca.gov/waterrights/water_issues/programs/instream_flows/) (https://www.waterboards.ca.gov/waterrights/water_issues/programs/instream_flows/).

Where should I store water diverted during the winter?

We recommend that you store water in properly installed aboveground tanks (such as high-density polyethylene), or in a permitted offstream pond, if conditions allow. Consider hiring a professional engineer, geologist, or other qualified professional to assist you.

I have multiple sources of supply for my cannabis cultivation (such as a spring and a well). What do I need to do?

In the Portal, you need to properly select all water sources with which you plan to irrigate your cannabis grow. The Portal will provide you with the next steps to complete if you need a Cannabis SIUR for your water source. If you are unsure which water source category you are in, or the technical and regulatory aspects of your diversion, consider hiring a professional engineer, geologist, or other qualified professional to assist you. Review the water source questions below for further information.

I have a groundwater well. What do I need to do?

1. State Water Board does not have permitting or reporting authority over groundwater in most cases, but there are some exceptions. You need to submit your well log (also known as well completion report) to CalCannabis as part of your cannabis cultivation application. You will also need documentation that the

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State Water Board has reviewed your water source through the Portal. If you do not have a well log, you may be able to obtain it by contacting the [Department of Water Resources \(DWR\)](https://water.ca.gov/Programs/Groundwater-Management/Wells/Well-Completion-Reports) (<https://water.ca.gov/Programs/Groundwater-Management/Wells/Well-Completion-Reports>) or your county office responsible for issuing well drilling permits (usually Environmental Health office). If you cannot obtain your well log from DWR or county, you need to obtain a letter from DWR stating that no well log exists for your well.

2. For additional information see [CalCannabis' Reference Guide for Application Attachments](https://www.cdfa.ca.gov/calcannabis/documents/ApplicationAttachmentsReferenceGuide.pdf). (<https://www.cdfa.ca.gov/calcannabis/documents/ApplicationAttachmentsReferenceGuide.pdf>).
3. Determine if your well extracts from a subterranean stream. Subterranean streams are bodies of water that flow in the subsurface through known and definite channels. Subterranean streams are subject to Water Board permitting and reporting authority. That is, we treat subterranean streams like surface water and you need to submit an SIUR through our Portal.
4. If you are subject to the Groundwater Recordation Program (that is, if you extract 10 acre-feet from a single well or more than 25 acre-feet total from multiple wells per year from a groundwater well in Los Angeles, Riverside, San Bernardino, or Ventura Counties) you need to report your water use. For more information, please visit the [Groundwater Recordation Program](https://www.waterboards.ca.gov/waterrights/water_issues/programs/groundwater_recordation/) (https://www.waterboards.ca.gov/waterrights/water_issues/programs/groundwater_recordation/).
5. All cannabis diversions are subject to California Department of Fish and Wildlife's (CDFW) Lake and Streambed Alteration (LSA) permitting authority. If CDFW finds that your groundwater well diversion is hydrologically connected to surface water and has the potential to impact surface flows, you may need to submit additional information to both CDFW and Water Boards. In general, the definition of hydrologic connectivity is broader than the definition of a subterranean stream. For more information about the LSA Program, please visit [CDFW's Lake and Streambed Alteration Program Webpage](https://www.wildlife.ca.gov/Conservation/LSA/Cannabis-Cultivation) (<https://www.wildlife.ca.gov/Conservation/LSA/Cannabis-Cultivation>).

I have a seep well. Do I need a water right?

A seep well is a type of surface water diversion that includes a shallow excavation near a surface water course that is hydrologically connected to that water course (stream, river, pond or lake, or other water feature). The water from the water table seeps through the earth and into the shallow excavation. You should notify CDFW of your diversion first, then obtain a Cannabis SIUR to divert and store water. You may not be eligible for a Cannabis SIUR if your seep well diverts from the main stem of a Wild and Scenic River or is on a Fully Appropriated Stream.

I have a spring on my property. Is that OK to use as my cannabis cultivation water source?

1. Most springs overflow, at some point during the year, into a channel that eventually flows off the property on which it is located. If your spring flows off your property at any time during the year (or you are uncertain), you need a water right and should file for a Cannabis SIUR through the Portal.
2. If your spring does not flow off your property at any time during any year and you divert less than 25 acre-feet per year, the spring may qualify as a fully contained spring. Fully contained springs do not flow off a person's property or into a channel that flows off the property, including wet years or after periods of heavy rain. The Cannabis Policy allows cultivators to request an exemption from the forbearance period and certain flow requirements if the spring being used for cannabis cultivation meets a set of pre-determined conditions. This exemption request is submitted through the Portal when you apply for a Cannabis SIUR. Visit the [Fully Contained Springs Exemption Process page](https://www.waterboards.ca.gov/water_issues/programs/cannabis/fully_contained_springs.html) (https://www.waterboards.ca.gov/water_issues/programs/cannabis/fully_contained_springs.html) for the technical information you need to submit to the State Water Board to document a fully contained spring and request an exemption.

I would like to collect rainwater. What do I need to do?

1. Rainwater or storm water runoff is legal to capture before it enters a channel, ditch, stream, lake or other water body. The term for rainwater runoff that has not yet entered a surface water body or channel is "sheet flow". The Cannabis Policy supports rainwater harvesting practices that collect water without creating significant modifications to the drainage area. One example of a viable rainwater capture approach is to direct runoff from a building roof into a cistern or tank for later irrigation use.
2. If sheet flow channelizes or causes erosion rills before entering your pond, you are diverting from a stream with an onstream dam. Please refer to the question above regarding onstream ponds (dams) for more information.
3. If sheet flow does not channelize before entering your pond OR you use a rooftop rainwater catchment system, you will need to obtain documentation that the State Water Board has reviewed your exempt water source through the Portal. However, you will need to submit the total area of your rainwater catchment footprint and total storage capacity to CalCannabis. You still need to apply for coverage under the Cannabis General Order if you cultivate commercial cannabis. Since it is difficult to accurately assess channelization, you should consider hiring a professional engineer, geologist, or other qualified consultant to assist you. For additional information see CalCannabis' Reference Guide for the Application Attachments.

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I am a customer of a municipal or retail water supplier. What do I need to do?

If you receive water through a connection to a water supplier you will need to obtain documentation that the State Water Board has reviewed your exempt water source through the Portal and disclose your water supply in your CalCannabis license application. The information about your water supplier that is required to be submitted to CalCannabis varies depending on the size of the supplier. For additional information see CalCannabis' Reference Guide for the Application Attachments.

I have a Small Domestic Use Registration (SDUR) on file with the State Water Resources Control Board. Can I use water from my SDUR to irrigate commercial cannabis?

No – SDURs may not be used to obtain a CalCannabis Cultivation license. SDURs are intended for human consumption and incidental irrigation not to exceed one-half acre in lawn, ornamental shrubbery, or gardens. Water diverted under a SDUR may not be used for irrigating a crop for barter, sale, or trade. If you have a residence on the property of your cannabis cultivation, you may apply for both a SDUR and a Cannabis SIUR.