Welcome!

Commercial Cannabis Permitting Workshop
July 22, 2020
Overview of the Commercial Cannabis Cultivation Licensing Process

Aliza Santos
Environmental Scientist

July 2020
Issued Licenses: Top Ten Counties

Humboldt County: 1,454
Santa Barbara County: 1,295
Mendocino County: 777
Monterey County: 518
Trinity County: 325
Los Angeles County: 246
Lake County: 177
Sonoma County: 110
Yolo County: 98
Nevada County: 89

Total applications approved as of 6/1/20: 5,621
Licenses Issued by Designation

Adult-Use (Recreational): 71%
Medicinal: 29%
Licenses Issued by Size

- Small: 64%
- Specialty: 16%
- Medium: 9%
- Nursery: 5%
- Specialty Cottage: 4%
- Processor: 2%
Licenses Issued by Type

Mixed-Light Tier 1: 37%
Outdoor: 36%
Indoor: 12%
Mixed-Light Tier 2: 8%
Nursery: 5%
Processor: 2%
Active Cannabis Cultivation Licenses
As of 3/31/2020
California Department of Food and Agriculture’s CalCannabis Cultivation Licensing Division Structure

CalCannabis Cultivation Licensing Division

- Licensing Branch
- Compliance and Enforcement Branch
- Administrative Branch
Annual License Application Review Process Flow

1. Application Fee Paid
2. Annual Application Received
3. Local Verification
4. Administrative Review
5. Scientific Review
6. Email Sent to Local Authority to Check Compliance
7. License Fee Paid
8. License Issued
Local Verification

Address Validation
• Confirm physical address using web-based mapping software

Transmit Compliance Inquiry
• Permit supplied: 10 calendar days to respond
• Permit not supplied: 60 business days to respond

Analyze Compliance Response
• In Compliance: moves to administrative review
• Not in Compliance: the review stops; may be recommended for denial
• No Response: move to administrative review
Administrative Review

Business Entity Structure
• Business formation documents, seller’s permit, surety bond, other cannabis interests

Right to Occupy
• Owner: title or deed to the property
• Renter/Lessee: rent or lease agreement and acknowledgement letter from property owner

Owner Applications
• Criminal history, conviction disclosures, statement of rehabilitation, legal determination on substantially related offenses

Deficiencies
• 90 days to supply all missing or incomplete information
Scientific Review

CEQA Compliance (provisional cannabis license decision)

Cultivation Plan
• Pest-management plan, waste-management plan, premises diagram, and property diagram

Deficiencies
• 90 days to supply all missing or incomplete information

Enrollment in the state water quality protection program

Lake and Streambed Alteration (LSA) Agreement (provisional cannabis license decision)

Water source and associated documentation
Application Approval

• Applicants have 90 days to pay their license fee and receive a cannabis cultivation license

• If the fee is not paid by the 90-day deadline, the application will be disqualified

• There are 251 approved applications pending payment of license fee, as of 6/11/2020.

Cultivators who have not paid the license fee cannot legally cultivate or engage in transfer of product
California Environmental Quality Act (CEQA)

Local jurisdiction may opt for a statutory exemption for their local ordinance

Full discretionary review
• Categorical exemptions
• Initial study/mitigated negative declaration
• Tiering checklists or addenda
• Robust project descriptions required

CDFA is a Responsible Agency
• Issuance of a state license is a subsequent discretionary action

CDFA can fulfill the role of lead agency if the local jurisdiction opts out
• This will delay approval of the application and subsequent issuance of a license

Ministerial exemptions alone are not sufficient for the issuance of a state license
Provisional Cannabis Cultivation Licenses

All required components of the Annual Cannabis Cultivation License

Must be able to show CEQA compliance is underway

Local verification that you are engaged in the process

• Location specifics (affidavit, permission letter, jurisdictional lists, etc.)
• Will work with cultivators as they submit applications

There is one application for a commercial cannabis cultivation license (it’s the same application for both provisional and annual licenses)

• The California Department of Food and Agriculture determines whether the applicant will receive a provisional or an annual license based on the material submitted in the application
Administrative Amendments

The Designated Responsible Party (DRP) must send an email to cdfa.calcannabis_amendments@cdfa.ca.gov with the following information:

- License numbers being amended
- Supporting documentation for the amendment, if applicable
- What information is specifically being amended

Emails to cdfa.calcannabis_amendments@cdfa.ca.gov should ONLY contain amendment requests. Any other questions or emails should be sent to calcannabis@cdfa.ca.gov.

Types of Administrative Amendments:

- Admin Amendment (Legal right to occupy, surety bond, financial interest holder(s), etc.)
- Designated Responsible Party declaration
- Owner information change
- Ownership Change
Science Amendments

- Physical modification of the licensed premises
- Provisional license transition to annual license
- Provisional license renewal review
Transition of a Provisional License to an Annual License

- Expiration date of license will not change
- License may be transitioned at anytime
- Licensee must meet all regulatory requirements
- Request must be submitted through a science amendment
Renewal of Licenses

Annual License Renewal

• License renewals are automated in the system

Click on your license number to open the license record

You can renew 60 days before your expiration date

Click here to start the renewal process
Renewal of Provisional Licenses

Provisional License Renewal (requires a science amendment)

- Proof of diligently making progress on outstanding deficiencies or other agency permitting requirements
- Division 10 of the Business and Professions Code, Section 26050.2
- Subject to a licensing action if submitted without proof of progress

Click on your license number to open the license record
You can renew 60 days before your expiration date
Click here to start the renewal process
Renewal of Licenses

Submit a Science Amendment to transition from a provisional license to an annual license or for provisional license renewal review

Submit an Application to Renew within 60 days prior to the license’s expiration and pay the license renewal fee

Please Note: The license fee is due at time the license is renewed.
California Cannabis Track-and-Trace (CCTT) System

• Licensed cultivators are required to report the disposition of immature and mature plants, nonmanufactured products, transfers, and waste

• Encrypted radio-frequency unique identifiers (UIDs) are required for tracking and tracing plants and packages

• UIDs are provided at no cost to the licensee
CCTT Use: Annual and Provisional Licenses

Licensees with an annual or a provisional license are required to use the CCTT system, and must complete the required training prior to gaining access to the system

- After receiving a notice of license approval, the Designated Responsible Party (DRP)/Account Manager has five calendar days to register for METRC New Business training
- Once credentialed, the DRP has five calendar days to order tags
- Once tags have been received, the DRP has three calendar days to acknowledge receipt of the tags in the METRC database, and 30 calendar days to tag existing inventory (plants and packages)
CCTT Use: Annual and Provisional Licenses

Three calendar days to report all activity in METRC (waste produced, plants harvested, packages created, etc.)

- Date entered into METRC must be the actual date of the activity
- Must receive or reject a transfer from another licensee within 24 hours of physical receipt or rejection of the products

CDFA’s Compliance and Enforcement Branch is revoking licenses for cultivators who are delinquent in completing their CCTT requirements
Compliance

- Compliance with regulations and cultivation plan
- Contracts through county agricultural commissioners
- Multiple inspections per year
- Notice of non-compliance
- Notice of violation (fines)
- Possible revocation of license
Enforcement

• The focus of our enforcement team is on unlicensed cultivation sites
• The enforcement team takes action based on recommendations from local law enforcement and permitting agencies
Thank You for Joining Us!

Visit our website and subscribe to our email alerts:

- [calcannabis.cdfa.ca.gov](calcannabis.cdfa.ca.gov)
- 1-833-CALGROW (1-833-225-4769)
- [calcannabis@cdfa.ca.gov](mailto:calcannabis@cdfa.ca.gov)
- Facebook.com/CACultivationLicensing
- Instagram.com/calcannabis.cdfa
- Twitter.com/cal_cannabis
Permitting for Cannabis Cultivation

Kyle Stoner
Senior Environmental Scientist (Specialist)
Cannabis Program
North Central Region
Manage California’s diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for the ecological values, and for their use and enjoyment by the public.
You must notify CDFW before beginning any activity that may:

- Substantially **divert or obstruct** the natural flow of any river, stream, or lake;
- Substantially **change or use any material** from the bed, channel, or bank of any river, stream, or lake; or
- **Deposit debris, waste, or other materials** containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Fish and Game Code section 1602
Any River, Stream, or Lake?

**Perennial Streams:** Flow year-round

**Intermittent Streams:** Flow seasonally and are dry for periods of time

**Ephemeral Streams:** Carries water only during and immediately after precipitation events.
All CDFA applications must include:

A. Final Lake or Streambed Alteration (LSA) Agreement, ....or

B. Written verification that an LSA Agreement is not required
When is an LSA Agreement Required?

CDFW determines the activity may substantially adversely affect existing fish or wildlife resources.
Example Activities That May Require an Agreement

- Water Diversions & Impoundments (e.g., ponds and dams)
- Stream Crossings (e.g., bridges and culverts)
- Bank Stabilization/Armoring
- Channel or Lakebed Modifications
- Riparian Vegetation Management
- In-Channel Maintenance
How Do I Get an LSA Agreement or Verification One is Not Required?

www.wildlife.ca.gov/Conservation/Cannabis

Cannabis Program

California is unique and diverse with the highest level of biodiversity in the entire nation. California has ancient sequoia forests, cool clear-flowing streams with salmon, beautiful coastal views, productive farmlands, and unique fish, amphibians, wildlife, and plants. CDFW has a public trust responsibility to protect and conserve California’s fish and wildlife resources.

CDFW uses several tools to protect and conserve fish and wildlife resources: environmental review, permitting, education, collaboration with other agencies and stakeholders, restoration, and enforcement.

Cannabis cultivators, like other project proponents, must comply with Fish and Game Code. Working together, we can ensure environmentally-friendly cannabis cultivation.

Learn more about the Cannabis Program and its impact on California's wildlife and natural resources.
How Do I Get an LSA Agreement or Verification One is Not Required?

www.wildlife.ca.gov/Conservation/Cannabis/Permitting

Cannabis Cultivation Permitting

Cannabis cultivators applying for an Annual License from the California Department of Food and Agriculture must have a Lake and Streambed Alteration (LSA) Agreement or written verification that one is not needed. CDFW requires an LSA Agreement when a project activity may substantially adversely affect fish and wildlife resources. LSA Agreements provide actions to avoid and minimize adverse impacts and provide protections to California's fish and wildlife resources.

As a part of a broader effort by the California Natural Resources Agency and CDFW to go paperless, CDFW is transitioning to electronic applications. To apply for an LSA Agreement or verification that an Agreement is not required, start your Environmental Permit Information Management System (EPIMS) notification today.

Paper notifications received on or after September 1, 2020 may be returned to the applicant.

On EPIMS, applicants can:

- Access anywhere internet is available
- Submit supplemental documentation such as plans, maps, photos and studies
- Calculate permit fees
- Obtain electronic signatures
- Receive email alerts and reminders
- Track application progress

EPIMS - Online Permitting Portal

Need EPIMS Help? Call 1 (833) 303-7467
Register Online!

Environmental Permit Information Management System (EPIMS)

epims.wildlife.ca.gov

All Notifications must be submitted through EPIMS starting September 1, 2020
EPIMS: Permitting Pathways

Three Pathways to COMPLIANCE

- Self-Certification
- General Agreement
- Standard Agreement
Self-Certification

- Provide property location, project description, water source, project maps
- Answer a few questions about your project
  - Infrastructure
  - Construction
  - Water source
- CDFW determines:
  - Project qualifies = written verification that an LSA Agreement is not necessary
  - Project does not qualify = notify for an LSA Agreement
- No fee required
This message will appear if your project is not Eligible for Self-Certification
• Only for stream crossings (bridge, culvert, or rock ford) or water diversions on non-fish streams or lakes
• Pre-written agreement
• CEQA exempt
• Must comply with terms & conditions
• Term of 5 years

Read the General Agreement
https://www.wildlife.ca.gov/Conservation/Cannabis/Permitting
Provide:

• Project location, description, water source, etc.
• Biological Resources Assessment
• Design Plans (if applicable)
• Property Diagram

* Fees vary by project cost. Fee schedule is online
Standard Agreement

- Based on project and site-specific conditions
- Applicant works with CDFW to avoid or minimize project impacts

Provide information:
- Project location, description, water source, etc.
- Detailed maps (aerial, plot maps, driving maps)
- Water sources
Standard Agreement - What to Expect

CDFW Review

• May request additional detailed information
• May request a site visit
• Must comply with CEQA
• Fees vary by project cost. Fee schedule is online
Help Yourself — Avoid Common Delays

Plan your project

• Allow sufficient time
• Work with the Regional Office serving your project area
• Review permitting options online before you begin

Provide detailed information

• Identify all activities associated with your cultivation project
  – Include activities not taking place within a river, lake, or stream
• Provide a detailed project description
Help Yourself—Avoid Common Delays

Access your EPIMS account
• Working with a consultant? Make sure you can access your online account

Submit the correct fees
• Fees vary by project cost. Fee schedule is online
• Cannabis remediation fees may be required in addition to LSA fees
California Environmental Quality Act (CEQA)

- Applies to all projects approved by California public agencies
- Includes LSA Standard Agreements
California Endangered Species Act (CESA)

If cultivation activities may result in take of a threatened, endangered, or candidate species, a separate CESA permit may be required.

https://www.wildlife.ca.gov/Conservation/CESA
Other Fish and Game Code Sections

- Rare native plants (§ 1908)
- Fully protected species (§§ 3511, 4700, 5050, 5515)
- Migratory nongame birds (§ 3513)
- Bird nests and eggs (§ 3503)
- Birds of prey (§ 3503.5)
- Water pollution (§ 5650)
- Refuse disposal into water (§ 5652)
- Fish passage (§ 5901)
- Sufficient water for fish (§ 5937)
- Obstruction of a stream (§ 5948)
- For projects on private timberlands, requirements set forth in the Forest Practice Act (Pub. Resources Code, § 4511 et seq)
Fines and Penalties

Enhanced fines for violations of Fish & Game Code violations related to cannabis cultivation

Substantial diversion/obstruction/use of stream without notification:

• $8,000-10,000 per violation, per day

Water pollution and disposal of trash within 150 feet of a water body:

• $20,000-$40,000 per violation, per day

Fish and Game Code section 12025
Compliance after permitting

• Keep Lake or Streambed Alteration Agreement or letter stating that one is not required onsite at all times.

• CDFW staff may request a compliance site inspection.

• New Notification may be required if the activities change substantially.

• Always ensure that work is being completed in accordance with your Agreement, and contact CDFW if anything is not clear.

• Generally keep a clean site.
Start your permit process!

Work with your regional CDFW office to permit your activities

Protect your investment

Protect California’s Fish and Wildlife

wildlife.ca.gov/Cannabis
www.wildlife.ca.gov/conservation/cannabis

Northern Region (Redding) (530) 225-2300
Northern Region (Eureka) (707) 445-6493
North Central Region (916) 358-2900
Central Region (559) 243-4005 x 151
South Coast Region (858) 467-4201
Inland Deserts Region (909) 484-0167
State Water Resources Control Board

Cannabis Cultivation Permitting and Compliance
Table of Contents

- Water Boards Overview
- Cannabis Cultivation Policy
- Cannabis Cultivation General Order
  - Planning & Reporting
- Cannabis Water Rights
- Cannabis Program Portal
- Additional Resources
Water Boards Overview
State Water Board Overview

- State Water Board – Cannabis Cultivation Program
  - Division of Water Quality
  - Division of Water Rights
  - Office of Enforcement
- Regional Water Quality Control Boards
Regional Cannabis Units

- Outreach/Messaging
- Issue Permits
- Determine compliance
- Initiate enforcement
- Technical assistance
Water Boards Cannabis Cultivation Program

- **Primary** Cannabis Program Components
  - The *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (*Cannabis Policy*)
  - *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* (*Cannabis Cultivation General Order*)
  - *Cannabis Small Irrigation Use Registration Program* (*Cannabis SIUR*)
Cannabis Policy
Cannabis Policy Overview (1)

- Policy describes overall structure of Water Boards cannabis cultivation regulatory program
- Establishes water quality and instream flow requirements
- Policy requirements may be updated as necessary
Cannabis Policy Regulatory Flow

Cannabis Cultivation Policy (State Water Board)

General Order Waste Discharge Regulatory Program (State Water Board, Regional Water Boards, Water Quality)

Small Irrigation Use Registration Program (State Water Board, Water Rights)

California Department of Food and Agriculture’s CalCannabis Cultivation Licensing
Cannabis Policy Overview (2)

- Main document:
  - Overview of how Water Boards program fits with other regulatory programs
  - Describes how policy is enforced
- Attachment A:
  - Section 1: Definitions, General Requirements, and Prohibitions
  - Section 2: Requirements for Water Diversion and Waste Discharge
  - Section 3: Numeric and Narrative Instream Flow Requirements
  - Section 4: Watershed Compliance Gage Assignments
  - Section 5: Planning and Reporting
  - Section 6: Useful Guidance Documents
Why is Coverage Required?
Cannabis Cultivation
General Order
What is the Cannabis Cultivation General Order?

- Order WQ 2019-0001-DWQ
  - Statewide program to protect water quality
  - Implemented by the State Water Board Division of Water Quality (DWQ) and Regional Water Quality Control Boards (Regional Water Boards)
- **Required** coverage for CDFA’s CalCannabis License
- May be called the “Water Quality Permit” or “Water Quality Protection Program” by other agencies
General Order Coverage (1)

- **Tier 1** – disturbed area equal to or greater than 2,000 square feet and less than 43,560 square feet (one acre)
- **Tier 2** – disturbed area equal to or greater than one acre

**Disturbed area includes:**
- Cannabis cultivation area, storage areas where soil or soil amendments are located, and areas where natural plant growth has been removed, or natural grade has been modified for any purpose, **all activities associated with developing or modifying land for cannabis cultivation related activities or access**.
  - Disturbed area is **always** greater than cultivation area

*Roads constructed and maintained consistent with the *Handbook for Forest, Ranch, and Rural Roads* are not considered disturbed area*
General Order Coverage (2)

- **Risk determination**
  - For Tier 1 and Tier 2 enrollees:

<table>
<thead>
<tr>
<th>Low Risk</th>
<th>Moderate Risk</th>
<th>High Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>No portion of the disturbed area is located on a slope greater than 30 percent, AND all of the disturbed area complies with the setback requirements</td>
<td>Any portion of the disturbed area is located on a slope greater than 30 percent but less than 50 percent, AND all of the disturbed area complies with the setback requirements</td>
<td>Any portion of the disturbed area is located within the riparian setback requirements</td>
</tr>
</tbody>
</table>
# Riparian Setbacks

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Watercourse Class</th>
<th>Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perennial watercourses, waterbodies (e.g. lakes, ponds), or springs</td>
<td>I</td>
<td>150 ft.</td>
</tr>
<tr>
<td>Intermittent watercourses or wetlands</td>
<td>II</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Ephemeral watercourses</td>
<td>III</td>
<td>50 ft.</td>
</tr>
<tr>
<td>Man-made irrigation canals, water supply reservoirs, or hydroelectric canals that support native aquatic species</td>
<td>IV</td>
<td>Established Riparian Vegetation Zone</td>
</tr>
<tr>
<td>All other man-made irrigation canals, water supply reservoirs, or hydroelectric canals</td>
<td>IV</td>
<td>N/A</td>
</tr>
</tbody>
</table>

*Watercourse detailed definitions in Cannabis Policy Attachment A*
Waiver of Waste Discharge Requirements (1)

- **Indoor conditional waiver**
  - Permanent roof, permanent relatively impermeable floor (not hoop houses, etc.)
  - Discharge wastewater to sewer, or capture and transport to permitted treatment system (Tank & Haul)
    - Or obtain separate discharge authorization
  - Comply with Requirements in Cannabis Policy Attachment A
  - Still need a valid water right
Waiver of Waste Discharge Requirements (2)

- **Outdoor conditional waiver**
  - Total less than 2,000 square feet disturbed area
    - Cultivation area must be contiguous (in one area)
  - No disturbed area on slope greater than 20%
  - Comply with riparian setbacks
  - Comply with Requirements in Cannabis Policy Attachment A
  - Still need a valid water right
Cannabis Cultivation General Order Fees

- Range from $600 (Tier 1 Low Risk) to $8,000 (Tier 2 High Risk)
  - Higher tier = higher fees
  - Higher risk = higher fees
  - Conditional exemptions = lower fees
- Refer to General Order Notice of Receipt (NOR) for more information after you apply
- Full fee schedule available at: State Board Cannabis Water Quality Webpage
  (www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html)
Cannabis Cultivation General Order – Planning and Reporting
# Initial Technical Reports

<table>
<thead>
<tr>
<th>Tier</th>
<th>Risk Level</th>
<th>Technical Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1</td>
<td>All</td>
<td>Site Management Plan</td>
</tr>
<tr>
<td>Tier 1</td>
<td>Moderate</td>
<td>Site Erosion and Sediment Control Plan</td>
</tr>
<tr>
<td>Tier 1</td>
<td>High</td>
<td>Disturbed Area Stabilization Plan</td>
</tr>
<tr>
<td>Tier 2</td>
<td>All</td>
<td>Site Management Plan</td>
</tr>
<tr>
<td>Tier 2</td>
<td>Moderate</td>
<td>Site Erosion and Sediment Control Plan</td>
</tr>
<tr>
<td>Tier 2</td>
<td>High</td>
<td>Disturbed Area Stabilization Plan</td>
</tr>
<tr>
<td>Tier 2</td>
<td>All</td>
<td>Nitrogen Management Plan (if <em>cultivation area</em> exceeds 1 acre)</td>
</tr>
</tbody>
</table>

- Submit to Regional Water Board included in NOR
- Greater threat to water = more reporting requirements
Annual Monitoring & Reporting Program (MRP)

- Required for Tier 1 and Tier 2 enrollees
  - Report even if you did not have plants growing yet!
- Same website as the application portal
  - public2.waterboards.ca.gov/cgo
- Due by March 1 following the year being monitored
  - For example, monitoring for 2019 due March 1, 2020
- To verify compliance with the General Order, report:
  - Facility Status (all Tier 1 and Tier 2 enrollees)
  - Site Maintenance Status (moderate or high risk)
  - Storm water runoff monitoring (moderate or high risk)
Site Termination

For Tier 1, Tier 2, and Conditionally Exempt sites:

- Submit “Cannabis Order Termination Request Form” using the Cannabis Program Portal
- Survey also includes Site Closure Report

Tier 1 and Tier 2 site dischargers also submit:

- Final Monitoring and Reporting Program Report
  - Option in the “Online Cannabis Water Quality Monitoring & Reporting Program” survey on the Cannabis Program Portal
Report Guidance Resources

- Cannabis Policy Attachment A, Section 5 - Planning and Reporting
- Cannabis Cultivation General Order Attachment B: Monitoring and Reporting Program
- Cannabis Cultivation General Order Attachment C: Notice of Termination
- Cannabis Cultivation General Order Attachment D: Technical Report Guidance
  - Attachment D has guidance for Site Management Plan, Site Erosion and Sediment Control Plan, Nitrogen Management Plan, Disturbed Area Stabilization Plan, Site Closure Report
Cannabis Water Rights
Do you need a water right?

Water Source(s) for Cannabis Cultivation

Surface Water or Subterranean Stream Diversion
- Small Irrigation Use Registration
- Other Valid Water Right with Storage*

Fully Contained Springs
- Percolating Groundwater
- Water Purveyor
- Rainwater catchment

Submit water source documentation to CDFA CalCannabis

*Water right must allow sufficient storage to ensure supply during Cannabis Forbearance Period.
What type of right do I need?

- **Small Irrigation Use Registration (SIUR)**
  - Commercial cannabis cultivator
    - For sale, trade, or barter
- **Other Valid Water Rights**
  - For Commercial cannabis cultivation
    - Must have sufficient storage to ensure supply during cannabis forbearance period.
- **Small Domestic Use Registration (SDU)**
  - For domestic water users
  - 6 cannabis plants or fewer
Small Irrigation Use Registration (SIUR) (1)

- Must comply with General Conditions, CDFW Conditions, and Cannabis Policy
- Max Diversion Amount: Up to 6.6 Acre-Feet per Year
- Max Diversion Rate: 10 Gallons per Minute
Small Irrigation Use Registration (SIUR) (2)

- $750 registration fee and recurring annual fee
- Allows water **diversion to storage** during wet season
  - November 1 through March 31
    (see Cannabis Policy for limitations)
- Imposes **forbearance period (no diversions)** during dry season
  - April 1 through October 31, possibly longer depending on flows
Forbearance Period

- Check our online cannabis compliance gage mapping tool
- Enter the address of your water right
- Check if diversion is authorized each day before you divert water
SIUR Limitations

- Will not be issued for diversions from:
  - Fully Appropriated Streams
  - Wild and Scenic Rivers
  - California Department of Fish and Wildlife (CDFW) Instream Flow Study Area: PRC section 10002
Onstream Reservoirs (1)

Cultivators with pre-existing onstream reservoirs may obtain an SIUR if:

Reservoir existed prior to October 1, 2016*
*If in North Coast Instream Flow Policy area (A.B. 2121), the reservoir must exist prior to:
  • July 19, 2006 on Class I or II stream
  • October 1, 2016 on Class III stream
Onstream Reservoirs (2)

Cultivators with pre-existing onstream reservoirs* may obtain an SIUR if:

- State Water Board and CDFW determine removal of reservoir or installation of off-stream storage would cause more environmental damage than continuing to use onstream reservoir for diversion and storage

*Additional Fee for Onstream Reservoirs:
- $4,000 for application ($4,750 total registration fee)
- $250 for annual fee ($1,000 total recurring annual fee)
Cannabis Cultivation Program Portal

Cannabis Cultivation General Order and Cannabis Small Irrigation Use Registration Portal
Water Boards’ Cannabis Cultivation Program Portal

Visit [www.public2.waterboards.ca.gov/cgo](http://www.public2.waterboards.ca.gov/cgo) and register/log in to start a new “Cannabis General Order and Small Irrigation Use Registration Portal” survey.
Cannabis Program Portal Process

APPLICANT
✓ Enters information
✓ Obtain Cannabis Program Portal Account
✓ Answers water quality and water rights questions
✓ Self-certifies compliance with General Order, Cannabis Policy, Registration Conditions

CANNABIS PROGRAM PORTAL
✓ Generates Notice of Receipt with fee invoice for General Order & for Water Rights as applicable
✓ Stores information for upload to CIWQS & eWRIMS databases

APPLICANT
✓ Pays fees to State Water Board within 30 days

WATER BOARDS
✓ Sends Notice of Applicability (NOA) to applicant
✓ Sends Small Irrigation Use certificate to applicants
✓ Adds technical report(s) required to eSMR

WATER BOARDS
✓ Review reports for compliance
✓ Inspects facilities for compliances and answers applicant questions
Distribution of Permits

Water Quality (General Order)  Water Rights (SIUR)
Register with the State Water Boards Today!

- Visit [www.public2.waterboards.ca.gov/cgo](http://www.public2.waterboards.ca.gov/cgo)
- Water Right/Water Source Documentation
- Cannabis Cultivation General Order coverage/waiver
- Both are needed for CalCannabis License Applications!

- Cannabis Cultivation Program Website: [www.waterboards.ca.gov/cannabis](http://www.waterboards.ca.gov/cannabis)

- Follow us: @CAWaterBoards

@CAWaterBoardsCultivation
State Contact Information

Water Rights Registrations
Phone number: (916) 319-9427
CannabisReg@waterboards.ca.gov

Division of Water Quality, Cannabis General Order
Phone number: (916) 341-5580
DWQ.cannabis@waterboards.ca.gov
Important Links

- Online portal:
  - https://public2.waterboards.ca.gov/cgo

- Handbook for Forest, Ranch & Rural Roads:
  - http://www.pacificwatershed.com/roadshandbook

- State Cannabis General Order:

- State Cannabis Policy with Attachment A:

- State Cannabis Additional Information:
  - https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html#general_order
Cannabis (Marijuana) Business in California

Presented by
Small Business Education and Outreach Section
Cannabis (Marijuana)

- Tax issues - cannabis complicated.
- Laws can highly limit deductions – 1/1/20 AB 37 – IRC 280E no longer applies for California.
- Income is taxable whether or not an activity is legal.
- Expenses attributable to illegal activities are not deductible.
Businesses operating under state licenses can choose any valid business structure for their business. They are able to operate on either basis:

- For-profit
- Not-for-profit

But no CA franchise and income tax exemption.
Selecting the legal structure
Forms of Ownership Information

FTB Publication 1123, Franchise Tax Board’s Guide to Forms of Ownership
Cannabis business income tax

A cannabis business files income tax returns just like other businesses. Differences may include deductions, credits, and unique payment and record keeping methods.

File your income tax return

Different business types have specific tax requirements. The business type (entity type) you choose impacts the types of deductions and credits you can take. For information on starting a business, different types of businesses, or on how to convert from not-for-profit to for-profit, go to Secretary of State.

Find out if you have an income tax return filing requirement for your business. For information on selecting an income tax return preparer, refer to FTB 982.

Select your business type

Sole proprietors and single member LLCs wholly owned by an individual
FTB Small Business Liaison

Telephone

• 916.845.4669
CANNABIS CULTIVATION AND EMPLOYMENT

Shalinee Hunter, JD
Consultant
The Department of Fair Employment and Housing is California’s Civil Rights Agency
Mission

The mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing, and public accommodations, and from the perpetration of acts of hate violence and human trafficking.
DFEH Responsibilities

- Engage in public outreach and provide training and technical assistance to employers, business establishments, and housing providers regarding their responsibilities under the law
- Investigate discrimination complaints and cases of systemic discrimination
- Facilitate mediation and resolution of disputes involving civil rights
- Enforce the laws by prosecuting violations in civil court
Employment
Education and Outreach

Employment Protected Bases

- Race (hair texture and style)
- Color
- Ancestry
- National Origin
- Religion
- Age (40 and over)
- Disability (mental and/or physical)
- Sex
- Gender
- Sexual Orientation
- Gender Identity
- Gender Expression
- Medical Condition
- Genetic Information
- Marital Status
- Military and Veteran Status
Employment – Who Must Comply?

The employment part of the FEHA applies to:

- Public employers
- Private employers
- Labor organizations
- Employment agencies
Required Notices

1. Employment Discrimination
2. Family Leave
3. Sexual Harassment
4. Transgender Rights
5. Rights of a Pregnant Employee
Discrimination; Family Leave

The California Department of Fair Employment and Housing (DFEH) enforces laws that protect you from illegal discrimination and harassment in employment based on your actual or perceived:

• ANCESTRY
• AGE, as well
• COLOR
• DISABILITY (physical, mental, or mental illness)
• GENDER
• GENDER IDENTITY
• GENDER EXPRESSION
• MARITAL STATUS
• NATIONAL ORIGIN
• LANGUAGE
• PHYSICAL OR MENTAL HANDICAP
• RELIGION
• SEX/GENDER (includes pregnancy, childbirth, and related medical conditions)
• SEXUAL ORIENTATION

Under the California Family Rights Act of 1993 (CFRA), if you are employed in a covered position and meet the eligibility requirements for leave, you may take up to 12 weeks of paid or unpaid leave from your regular employment. This includes:

- Maternity leave of up to 12 weeks for the birth of a child
- Paternity leave of up to 12 weeks
- Parental leave of up to 12 weeks
- Medical leave of up to 12 weeks
- Family leave of up to 12 weeks

This leave is available to employees for the purpose of taking care of a child, a parent, a sibling, or a grandparent, or to care for a child with a serious health condition. You may also take leave for your own serious health condition.

Family Care and Medical Leave & Pregnancy Disability Leave

If possible, you must provide at least 30 days advance notice for leave related to serious medical conditions or for leave related to the adoption or fostering of a minor child. If you cannot provide advance notice, as soon as you learn you need the leave.

Failure to comply with these rules may result in serious consequences for the employer. If you have any questions about your eligibility for leave, contact DFEH at 1-800-995-4627.

For more information, visit the Family Care and Medical Leave section on the DFEH website.
Sexual Harassment; Transgender Rights

**Sexual Harassment**

Sexual harassment is a form of discrimination based on sex or gender identity, including gender expression, gender identity, gender identity, gender expression or gender identity. Individuals of any gender can be the target of sexual harassment. Unlawful sexual harassment does not have to be motivated by sexual desire. Sexual harassment may occur when the harasser is of the same gender as the harassed, regardless of the harasser’s sexual orientation or gender identity.

**There are Two Types of Sexual Harassment**

1. **Quid pro quo** (Latin for “this for that”) sexual harassment occurs when someone in a position of authority uses their power to exchange sexual favors for job benefits or retaliation.
2. **Hostile work environment** sexual harassment occurs when someone creates a work environment that is hostile or offensive to an employee.

**Sexual Harassment Includes Many Forms of Offensive Behaviors**

- Unwanted sexual advances
- Verbal harassment
- Physical harassment
- Humiliation
- erection
- Sexual jokes
- Threatening comments
- Harassing comments
- Staring
-触摸
- Inappropriate contact
- Sexual autoholism
- Stalking
- Solicitation
- Sexual assault
- Unwanted sexual advances in the workplace

**Employer Responsibility and Liability**

Employers who do not take steps to prevent sexual harassment may be held liable for the conduct of their employees. In addition, employers may be liable for sexual harassment if they are aware of the harassment and fail to take reasonable steps to prevent it.

**FAQ for Employers**

- **What is the obligation of an employer?**
  
  Employers must take steps to prevent sexual harassment in the workplace. This includes providing employees with training and resources to prevent sexual harassment.

**Filng a Complaint**

If you believe you are the victim of discrimination, you have a right to file a complaint with the Equal Employment Opportunity Commission (EEOC). To file a complaint, you must file it within 180 days of the alleged discrimination. If you are unable to file a complaint, you may be able to file a lawsuit in court.

**Contact Us**

If you have questions or would like to report an incident, you can contact the California Department of Fair Employment and Housing (DFEH) at 888-397-4700 or visit their website at www.dfeh.ca.gov.
Rights and Obligations as a Pregnant Employee

YOUR EMPLOYER HAS AN OBLIGATION TO:

- Reasonably accommodate your medical needs related to pregnancy, unless doing so would impose an undue hardship on the employer.
- Provide reasonable breaks for you to express breast milk if you need to breastfeed your newborn child.
- Ensure that you have a safe workplace free from harassment and discrimination.

FOR PREGNANCY DISABILITY LEAVE:

- If your employer terminates your employment during your pregnancy, you have the right to sue for wrongful termination.
- Your employer must allow you to return to the same or equivalent position.
- Your employer may not reduce your compensation or benefits while you are on pregnancy disability leave.

NOTICE OBLIGATIONS AS AN EMPLOYEE:

- You must provide your employer with reasonable notice of your pregnancy.
- You must comply with all employment rules.

ADDITIONAL RIGHTS UNDER CALIFORNIA FAMILY RIGHTS ACT (CFRA) AND NEW PARENT LEAVE ACT (NPLA):

- Under the California Family Rights Act (CFRA), if you have served at least 12 months and have worked for 1,250 hours in the 12-month period before the date you took your leave, you are entitled to 12 weeks of unpaid leave per year.
- The leave must be taken at least 30 consecutive days or shorter segments totaling at least 12 weeks.
- If you use more than 10 weeks of your 12-week leave during the birth or adoption of a child, your employer must provide you with a written statement that outlines how your leave will be taken.

- Under the New Parent Leave Act (NPLA), if you have been employed for at least 12 months and have worked 50% of a full-time schedule for at least 12 weeks, you are entitled to 12 weeks of unpaid leave per year.

- Your employer may provide you with a written statement that outlines how your leave will be taken.
- Your employer must provide you with a written statement that outlines how your leave will be taken.

- You must comply with all employment rules.

- Your employer must maintain your benefits, including health insurance, while you are on leave.

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EQUITY AND SOCIAL JUSTICE

In addition to the required protections for employees it is helpful if employers are aware of the damaging, and long-term impact that federal and state cannabis enforcement policies has had on black and brown communities.
Employment Complaint Process

- Complete and Submit Intake Form
- Intake interview by Department representative
- If complaint is accepted, investigation
- Conciliation efforts
- Determination
- If “reasonable cause” determination is made, then mandatory mediation
- Possible civil litigation if not settled
Employment Complaint Flowchart
Remedies May Include:

- Reimbursement for actual losses and compensation for emotional distress
- Access to previously denied housing
- Hiring or reinstatement
- Back pay or promotion
- Training and policy changes
- Monitoring and ongoing reporting
- Civil penalties
- Punitive damages
- Attorney’s fees and costs to the Department if it prevails
Thank you!

For more information, please contact DFEH:

[Links]
www.dfeh.ca.gov
contact.center@dfeh.ca.gov
accommodations@dfeh.ca.gov

Toll Free: (800) 884-1684
TTY: (800) 700-2320
California Relay Service 711
Presenter

James Wong

www.edd.ca.gov

Taxpayer Assistance Center

1-888-745-3886
Objectives

- Employment Development Department (EDD) Overview
- Cannabis Industry and State Payroll Taxes
- Employees or Independent Contractors
- State Payroll Reporting Requirements
# Misclassification Example

<table>
<thead>
<tr>
<th>One worker, earning $20,000 for per year.</th>
<th>Employer misclassifies worker as independent contractor.</th>
<th>Employer correctly classifies worker as employee.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployment Insurance (3.4 percent)*</td>
<td>$238</td>
<td>$238</td>
</tr>
<tr>
<td>*New employer rate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employment Training Tax (0.1 percent)</td>
<td>$7</td>
<td>$7</td>
</tr>
<tr>
<td>State Disability Insurance (1.0 percent)</td>
<td>$200</td>
<td>withheld from employee</td>
</tr>
<tr>
<td>Personal Income Tax (6.0 percent)</td>
<td>$1,200</td>
<td>withheld from employee</td>
</tr>
<tr>
<td>Total due for one year</td>
<td>$1,645**</td>
<td>$245</td>
</tr>
<tr>
<td>**Plus penalty and interest</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Common Misconceptions

There are several common misconceptions which often lead to misclassifying workers as independent contractors.

Resource: Independent Contractor Misconceptions, DE 573M
Types of Workers

• Employees
  ➢ Common law
  ➢ Excluded services
  ➢ Statutory
  ➢ Volunteers

• Independent Contractors
Typical Employee Services

- Corporate officers
- Managers
- Customer service
- Agricultural labor
  - Cultivators
  - Growers
  - Harvesters
Assembly Bill (AB) 5

- For purposes of the UI code, AB 5 becomes effective January 1, 2020.
- AB 5 codifies the “ABC” test.
  - Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018)
- AB 5 includes some exceptions for certain occupations and contracting relationships.
Resources

- *Employment Determination Guide*, **DE 38**
- *Determination of Employment Work Status*, **DE 1870**
- California Unemployment Insurance Appeals Board: www.cuiab.ca.gov/index.asp
- www.edd.ca.gov/Cannabis
- Employee or Independent Contractor Tax Seminar: www.edd.ca.gov/Payroll_Tax_Seminars/
CALIFORNIA’S
AGRICULTURAL LABOR RELATIONS LAW
Presented by: Eduardo Blanco
Special Legal Advisor, ALRB
PURPOSE OF THE ACT

• The act guarantees the rights of employees to engage in, or refrain from, union activities or “concerted activities” such as acting together to help or protect each other in matters related to their employment, including their wages, hours, or working conditions.
DOES THE ALRA APPLY TO YOU

• Who is an Agricultural Employer?
• Who is an Agricultural Employee?
• Medicinal and Adult-Use Cannabis Regulation and Safety Act Requirements (MAUCRSA)
WHO IS AN AGRICULTURAL EMPLOYER?

• The term agricultural employer includes any person, association or group engaged in agriculture, and any person acting directly or indirectly in the interests of such an employer, or any grower, cooperative grower, harvesting association, hiring association or land management group, as well as any person who owns or leases or manages land for agricultural purposes.

• An agricultural employer is responsible for the acts of: its supervisors or other persons who have supervisory authority.

• Responsibility of employer extends to the acts of any hired Farm Labor Contractor and its supervisors.
WHO IS AN AGRICULTURAL EMPLOYEE?

• Agricultural employees, as defined in the Act, are those engaged in agriculture or in any functions which a farmer performs as an incident to or in connection with farming operations. This includes office staff.

• It does not include supervisors, managers or owners
LABOR PEACE AGREEMENTS

• **MAUCRSA** created workplace access for union organizers in a process known as the Labor Peace Agreement (hereinafter LPA). For an LPA to be required, the employer must have employed, at minimum, 20 employees at the workplace during the calendar year. The employer must have obtained an LPA prior to obtaining its annual state license or, if not, then it must attest that it will enter into an LPA within a reasonable time frame after obtaining its state license.

• Some counties or cities have lowered the minimum number of employees needed for the LPA process to apply.

• **ALRB** has its own access provisions separate and apart from the LPA process.
Thank You!

Questions?