

Welcome!

Commercial Cannabis Permitting Workshop

July 22, 2020





CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

CAL  CalCannabis
Cultivation Licensing

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

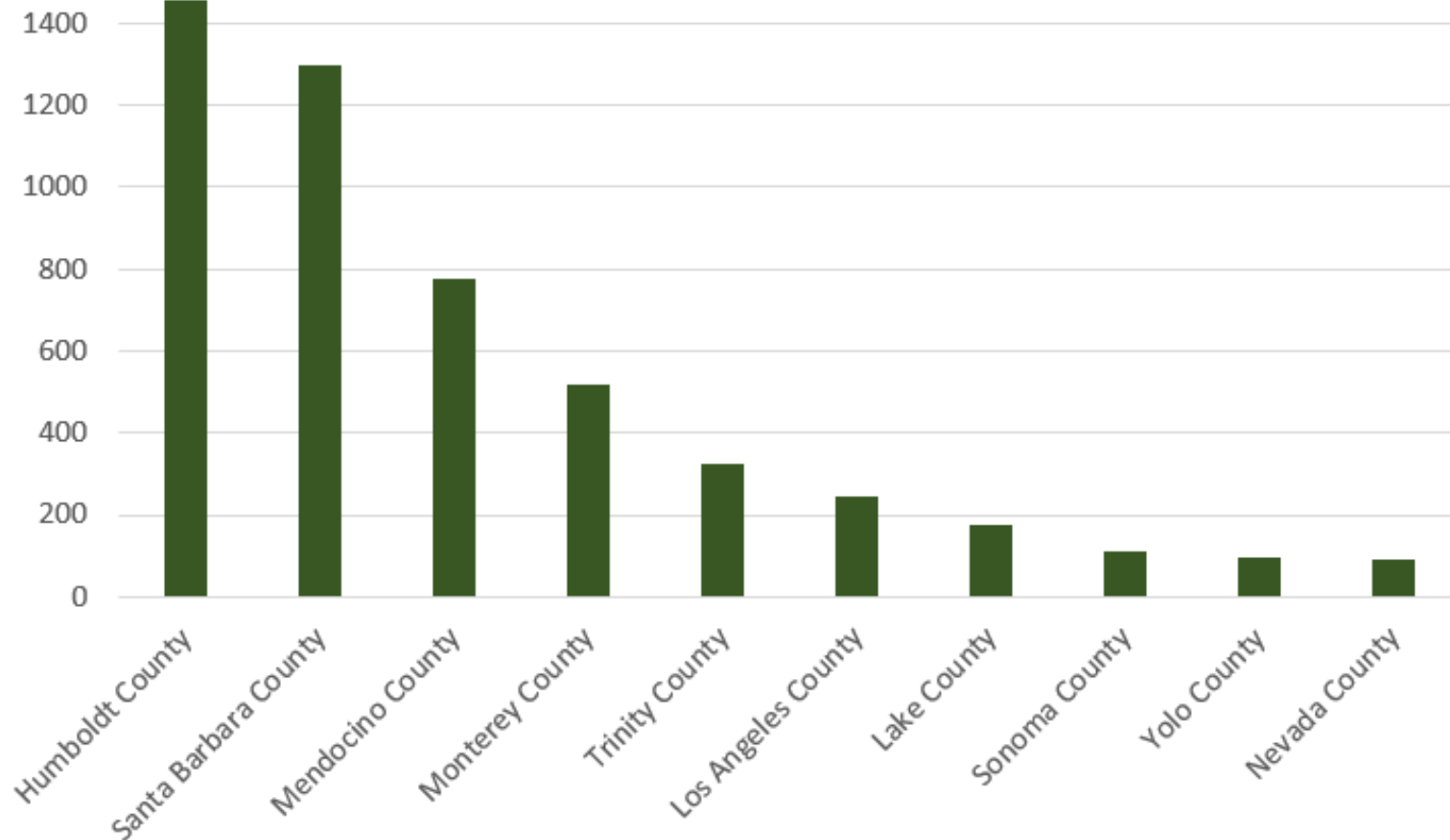
Lake County: 177

Sonoma County: 110

Yolo County: 98

Nevada County: 89

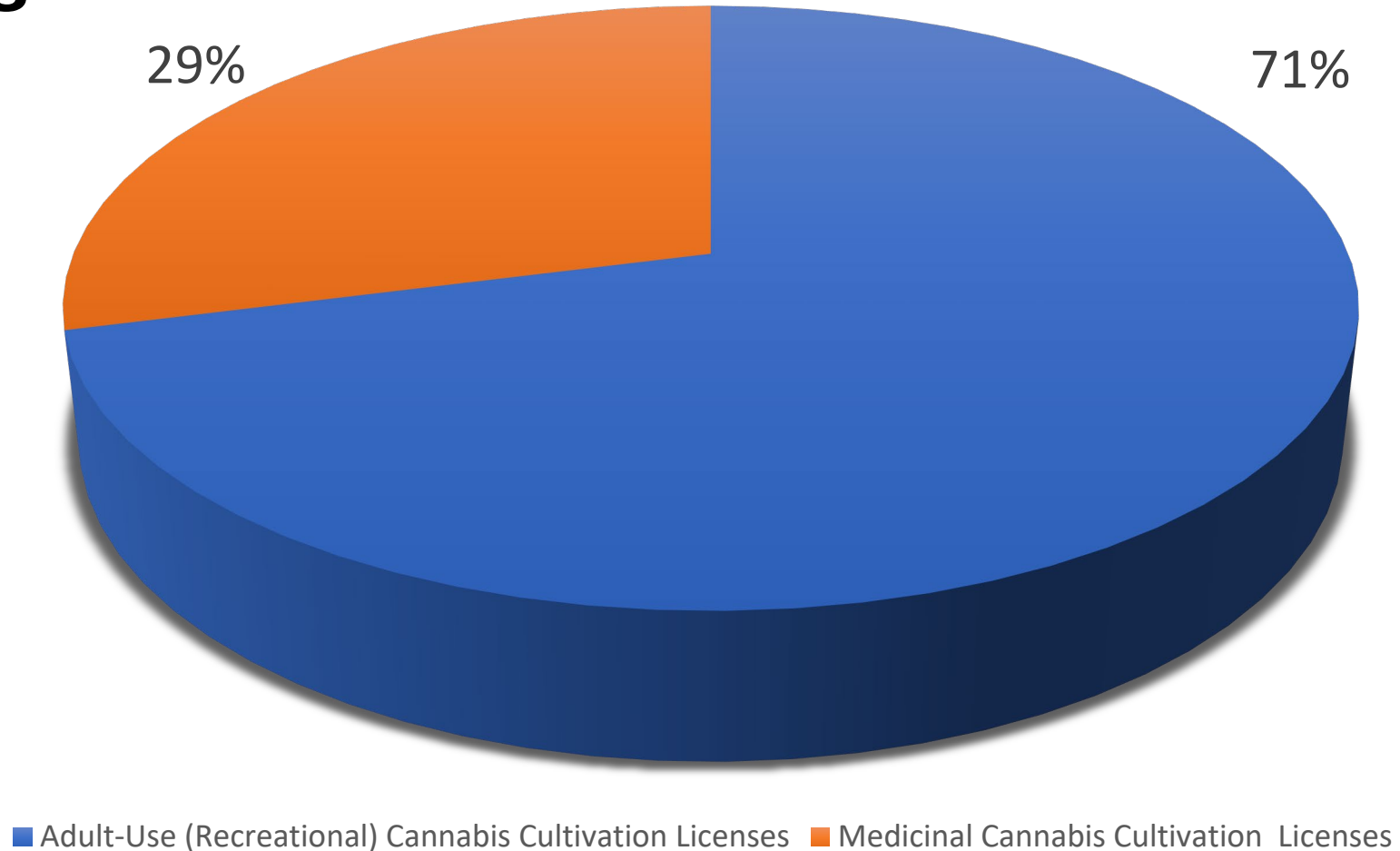
Total applications approved as of
6/1/20: 5,621



Licenses Issued by Designation

Adult-Use (Recreational): 71%

Medicinal: 29%



Licenses Issued by Size

Small: 64%

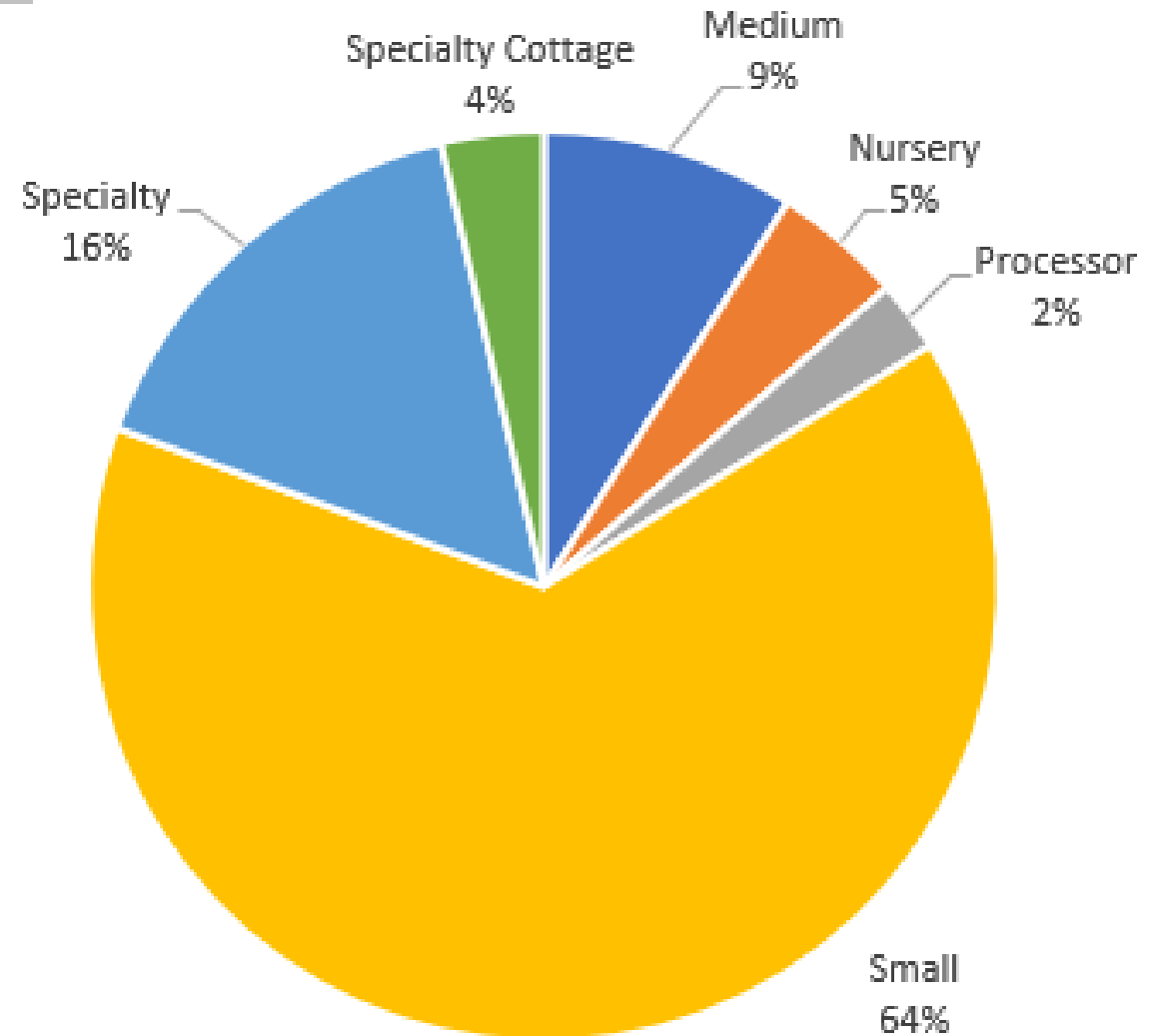
Specialty: 16%

Medium: 9%

Nursery: 5%

Specialty Cottage: 4%

Processor: 2%



Licenses Issued by Type

Mixed-Light Tier 1: 37%

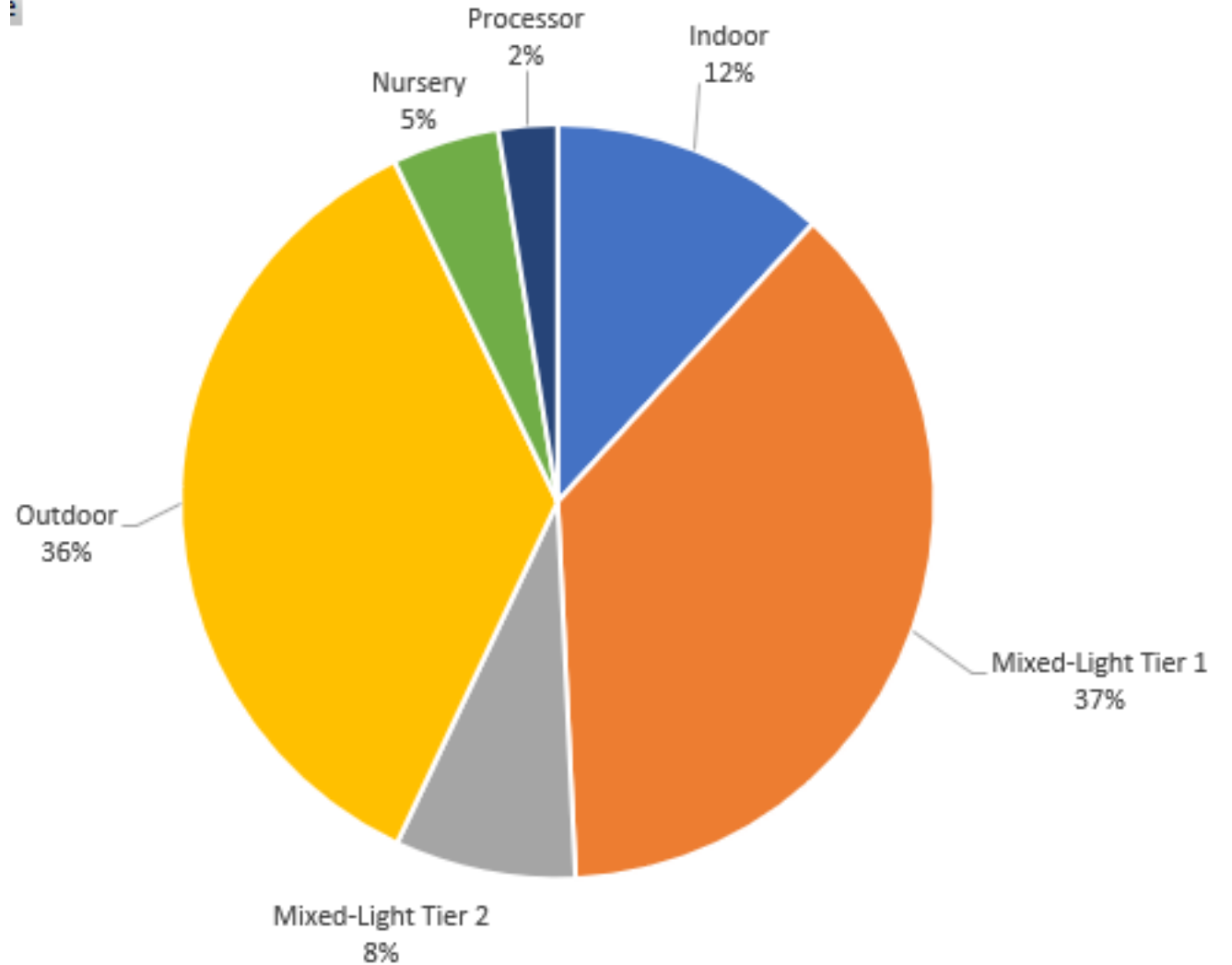
Outdoor: 36%

Indoor: 12%

Mixed-Light Tier 2: 8%

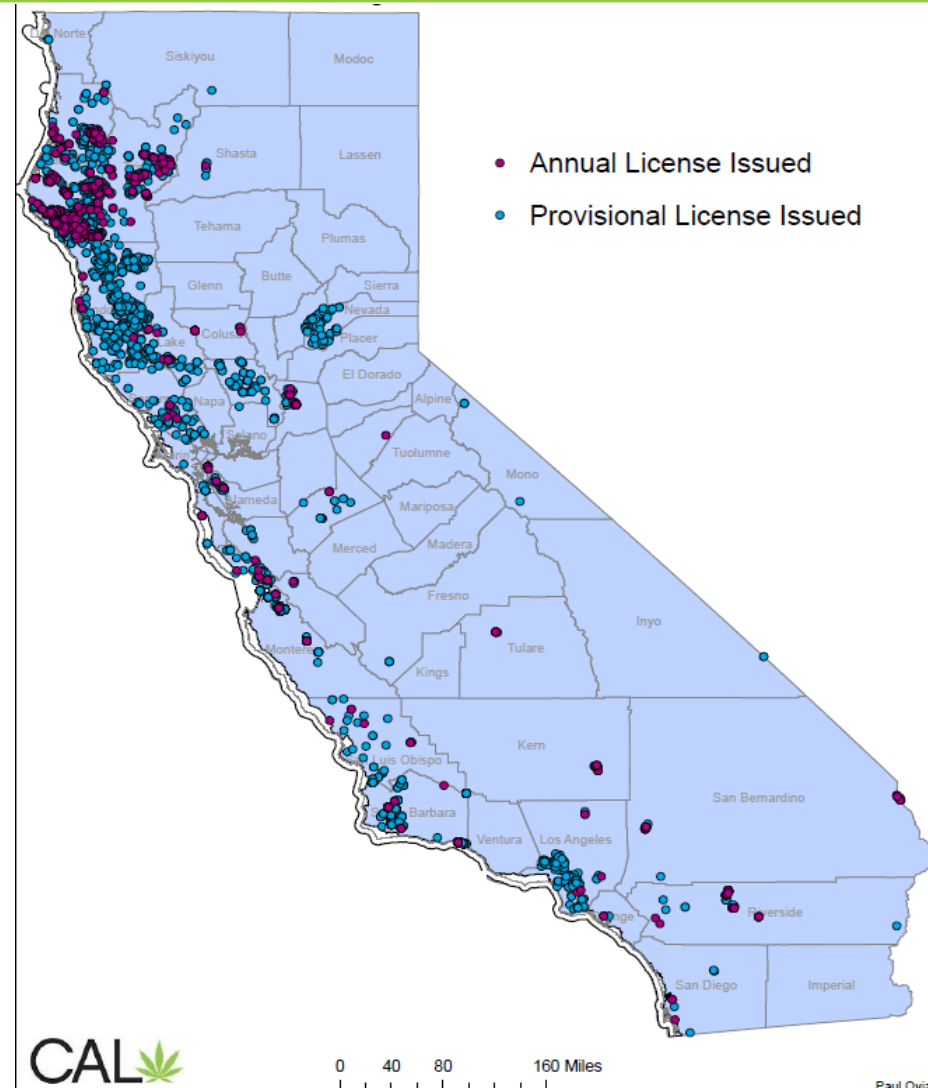
Nursery: 5%

Processor: 2%

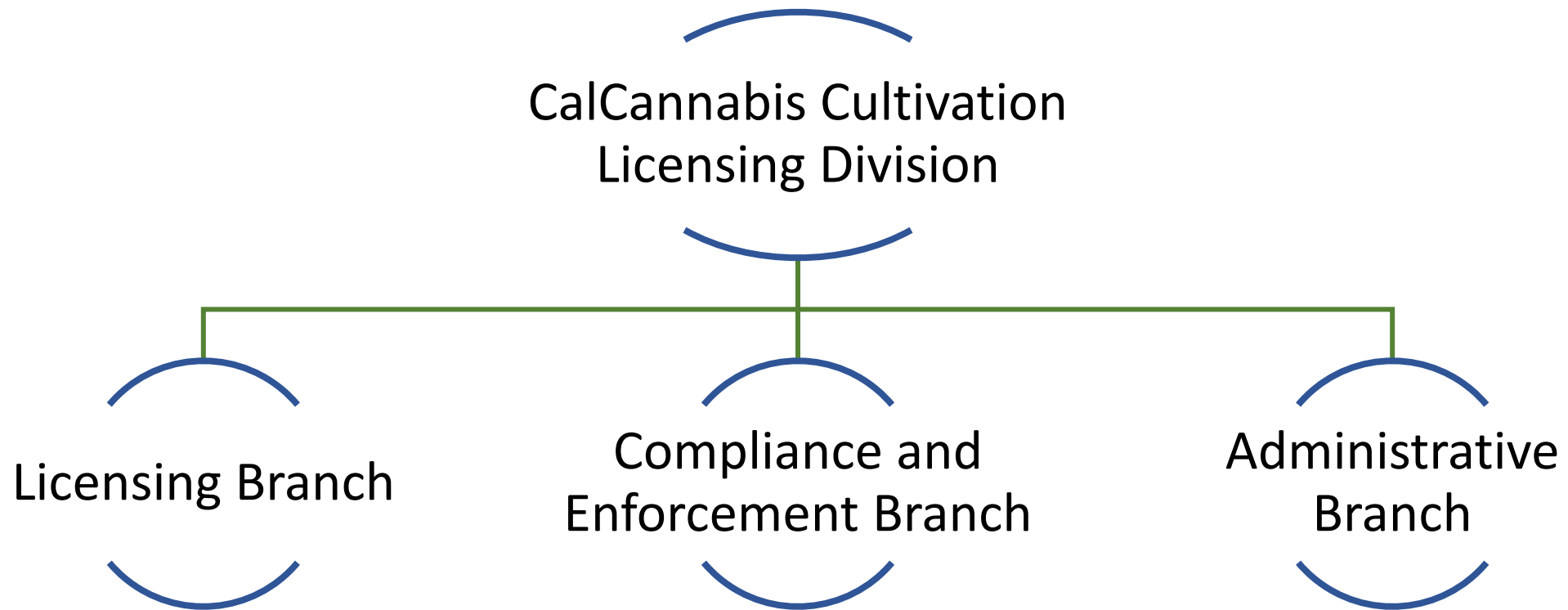


Active Cannabis Cultivation Licenses

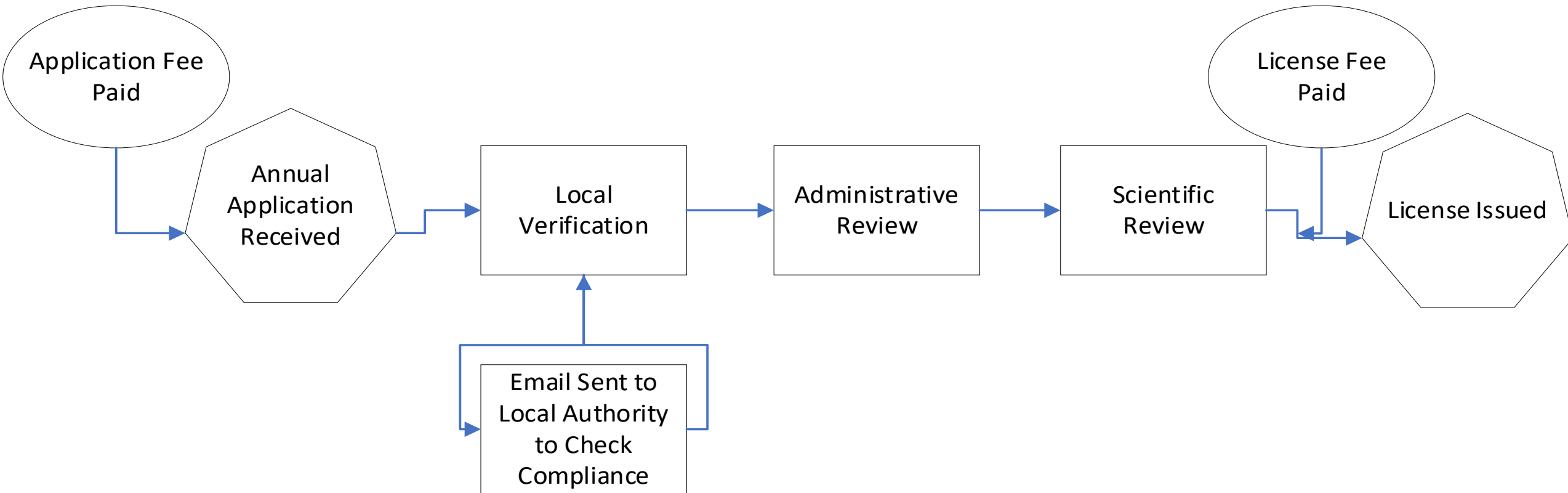
As of 3/31/2020



California Department of Food and Agriculture's CalCannabis Cultivation Licensing Division Structure



Annual License Application Review Process Flow



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

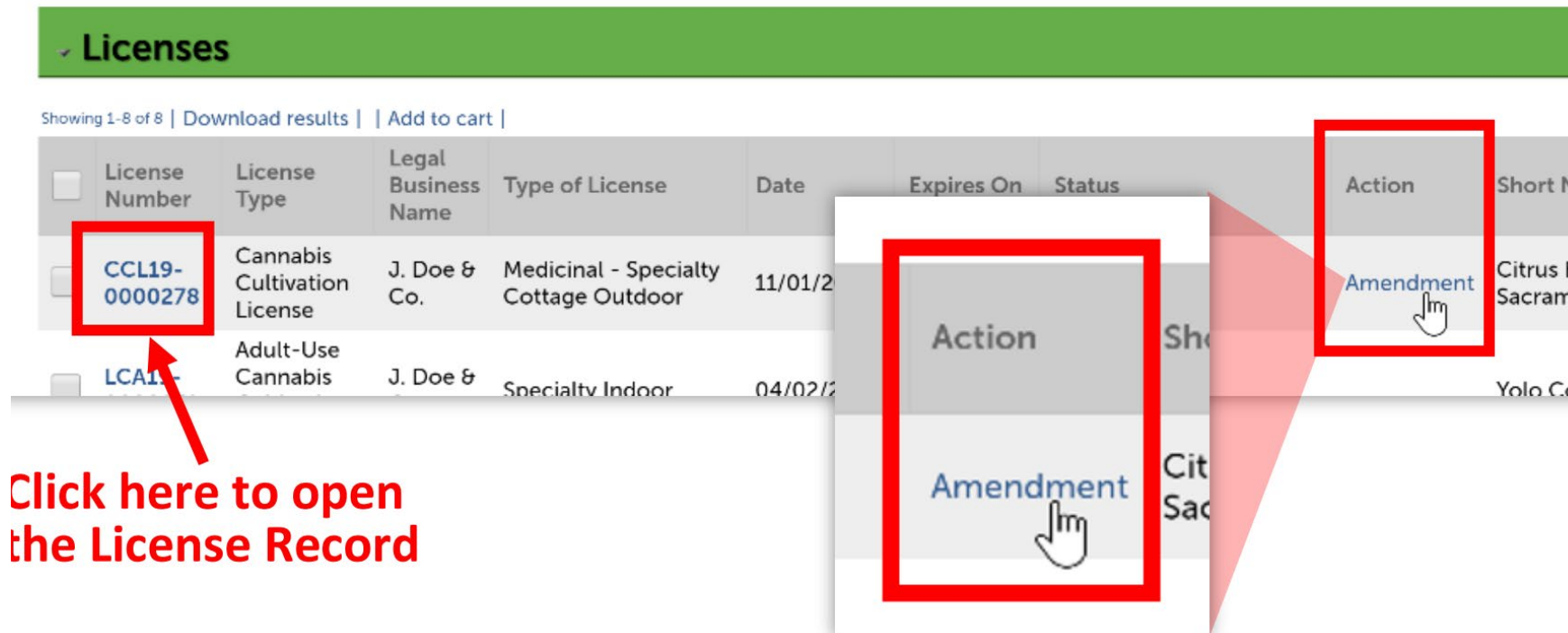
- Physical modification of the licensed premises
- Provisional license transition to annual license
- Provisional license renewal review

Licenses

Showing 1-8 of 8 | Download results | Add to cart |

<input type="checkbox"/>	License Number	License Type	Legal Business Name	Type of License	Date	Expires On	Status	Action	Short N
<input type="checkbox"/>	CCL19-0000278	Cannabis Cultivation License	J. Doe & Co.	Medicinal - Specialty Cottage Outdoor	11/01/2			Amendment	Citrus H Sacram
<input type="checkbox"/>	LCA1	Adult-Use Cannabis	J. Doe &	Specialty Indoor	04/02/2			Amendment	Yolo Co

Click here to open the License Record



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

Licenses								
Showing 61-80 of 200+ Download results Add to cart								
<input type="checkbox"/>	License Number	License Type	Legal Business Name	Type of License	Date	Expires On	Status	Action
<input type="checkbox"/>	CCL18-0000535	Cannabis Cultivation License	Fairy World LLC	Annual Adult-Use - Specialty Cottage Mixed-Light Tier 1	08/07/2018	12/29/2019	About to Expire	Renew License Amendmen

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

Licenses

Showing 61-80 of 200+ | [Download results](#) | [Add to cart](#)

<input type="checkbox"/>	License Number	License Type	Legal Business Name	Type of License	Date	Expires On	Status	Action
<input type="checkbox"/>	CCL18-0000535	Cannabis Cultivation License	Fairy World LLC	Annual Adult-Use - Specialty Cottage Mixed-Light Tier 1	08/07/2018	12/29/2019	About to Expire	Renew License Amendment

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



1-833-CALGROW (1-833-225-4769)



calcannabis@cdfa.ca.gov



Facebook.com/CACultivationLicensing



Instagram.com/calcannabis.cdfa



Twitter.com/cal_cannabis

California Department of Fish & Wildlife

Permitting for Cannabis Cultivation

Kyle Stoner
Senior Environmental Scientist (Specialist)
Cannabis Program
North Central Region



CDFW Mission

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.



Notify CDFW before...

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



www.wildlife.ca.gov/Conservation/Cannabis



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.



California Department of Food & Agriculture (CDFA) *Annual License Application Requirement*

CDFA Proposed Permanent Regulations § 8102, subdivision (w)

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

CA.GOV Login Contact Us ENHANCED BY Google

CALIFORNIA Department of Fish and Wildlife Home Fishing Hunting Licensing Conservation Learning

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.



New! Read the [2018 CDFW Cannabis Annual Report \(PDF\)](#)

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Resources



How Do I Get an LSA Agreement or Verification One is Not Required?

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

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CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Home Fishing Hunting Licensing Conservation Learning

Cannabis Cultivation Permitting



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Email

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[EPIMS - Online Permitting Portal](#)

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

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Register Online!



California Department of
Fish and Wildlife

System Compatibility

Environmental Permit Information Management System (EPIMS)

epims.wildlife.ca.gov

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


Log In

Log In

User ID: *

Password: *

[Forgot User Id?](#)
[Forgot Password?](#)



New to Environmental Permit Information Management System?
[Register Here](#)

Announcements

Environmental Permit Information Management System (EPIMS)

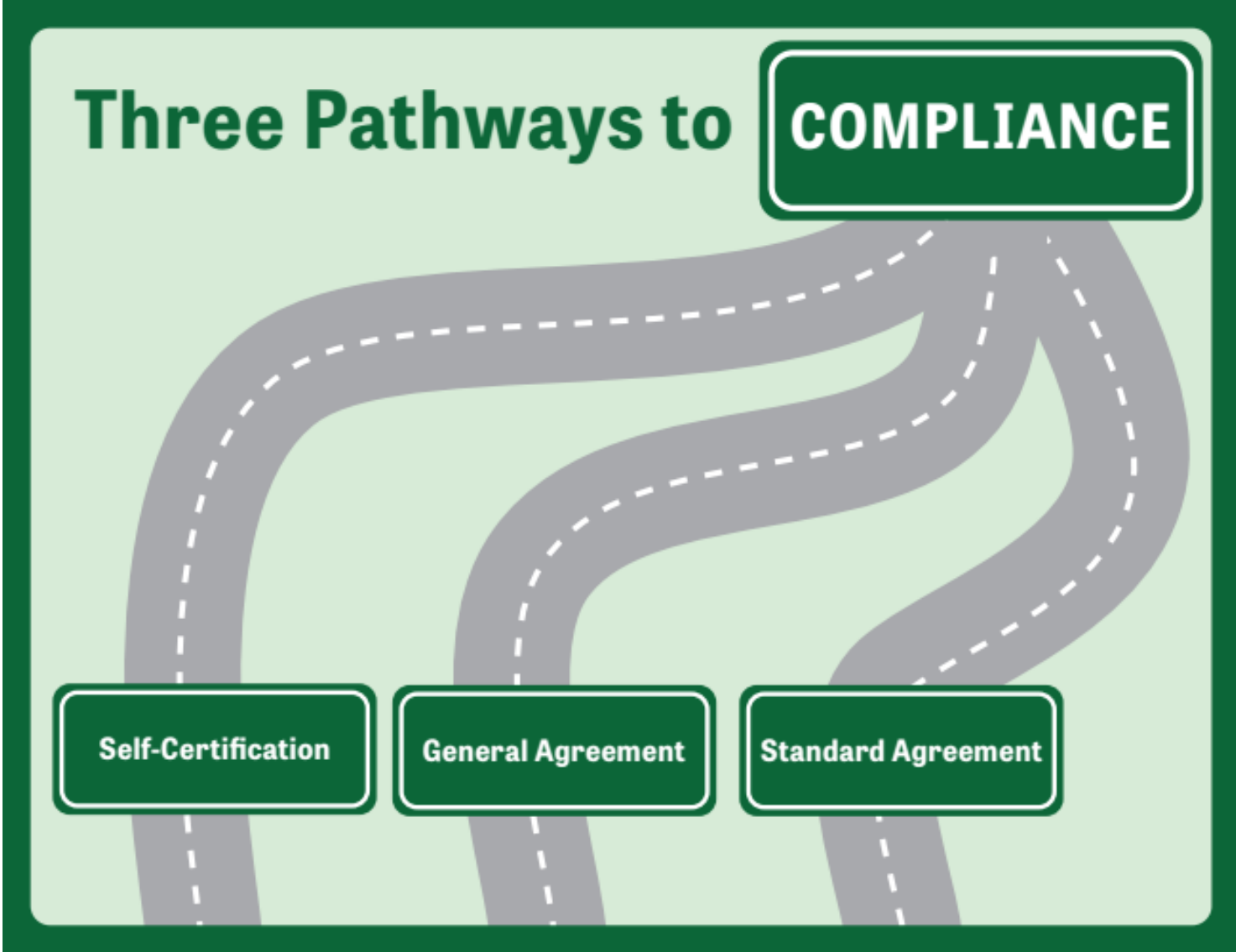
[START HERE - CLICK FOR EPIMS INSTRUCTIONS](#)

- Click on the "START HERE" link above and read the attached document before proceeding with your user registration.
- **User accounts must be registered using the applicant's name.** If you are a designated representative (e.g. lawyer or consultant) for an applicant, do not register an account under your name personally. The applicant is responsible for complying with the terms and conditions of the agreement.
- **Register for only one user account.** With one user account, you may complete multiple self-certifications or notifications for multiple Regions, if necessary.
- If you do not receive an automated confirmation email within a few minutes of registering, please check your Spam/Junk E-mail folder.
- New User Registration Approval is not automated and may take up to 72 hours. Once approved, you will receive two emails, one containing your User ID, and one containing your temporary password.
- **Internet Explorer and Apple IOS are not fully compatible with EPIMS.** CDFW recommends using Chrome or FireFox web browser.

Need EPIMS help?

Call 1(833) 303-7467 or
Email EPIMSHelp@wildlife.ca.gov

EPIMS: Permitting Pathways



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





epims.wildlife.ca.gov says
Not Eligible. Return to the Main Menu and select a different Opportunity.
OK

Menu | Help | Log Out Back | Print | Add

Application
Application: 08252 - my project
Program Area: Region 1
Opportunities: 01434 - Self-Certification for Cannabis Cultivation - Region 1
Application Deadline: Application Deadline Not Applicable

Instructions
1. To answer Self-Certification Survey Questions, select "Edit" at the top of the screen.
2. When you have completed your entry for each open field, select "Save".
3. When you have completed the entire form, be sure to "Mark as Complete".
IMPORTANT: ALL FIELDS MARKED WITH A RED ASTERISK (*) MUST BE COMPLETED BEFORE SUBMITTING.

Need EPIMS help?
Call 1(833) 303-7467 or
Email EPIMSHelp@wildlife.ca.gov

Project Specific Questions? CDFW Regional Office (PDF)
Cannabis Questions? AskCannabis@wildlife.ca.gov
LSA Questions? LSA@wildlife.ca.gov

Self-Certification Survey Questions
Fish and Game Code section 1602 requires an entity to notify the CDFW, and if necessary, obtain a permit, referred to as a "lake or streambed alteration agreement," prior to commencing an activity that will:

- 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 that could pass into any river, stream, or lake.

"Any river, stream, or lake" includes those that are dry for periods, in addition to those that flow year round. This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

"Cultivation site" means a location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs (Bus. & Prof. Code, § 26001, subd. (m)) and any location where there are activities related to or that support cannabis cultivation.

"Associated activity" means any activity that supports or is otherwise connected or related to the cultivation of cannabis, including, for example: the installation, repair, or replacement of a stream crossing used to access a cultivation site; pumping water from a stream to irrigate a cultivation site; removing vegetation along a stream or lake to construct or repair a stream crossing; "armoring" a bank to protect a road used to reach a cultivation site; or grading adjacent to any river, stream, or lake to construct infrastructure (e.g., driveway, parking lot, greenhouse, or storage shed).

The following questions will help you and CDFW determine whether your cannabis cultivation project, including all associated activities, has or will require you to notify CDFW pursuant to Fish and Game Code section 1602.

This message will appear if your project is not Eligible for Self-Certification



General Agreement

- 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>



General Agreement

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

Other CDFW Permits and Environmental Review

California Environmental Quality Act (CEQA)

- Applies to all projects approved by California public agencies
- Includes LSA Standard Agreements



Other CDFW Permits and Environmental Review

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.



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**



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





Additional Information

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



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

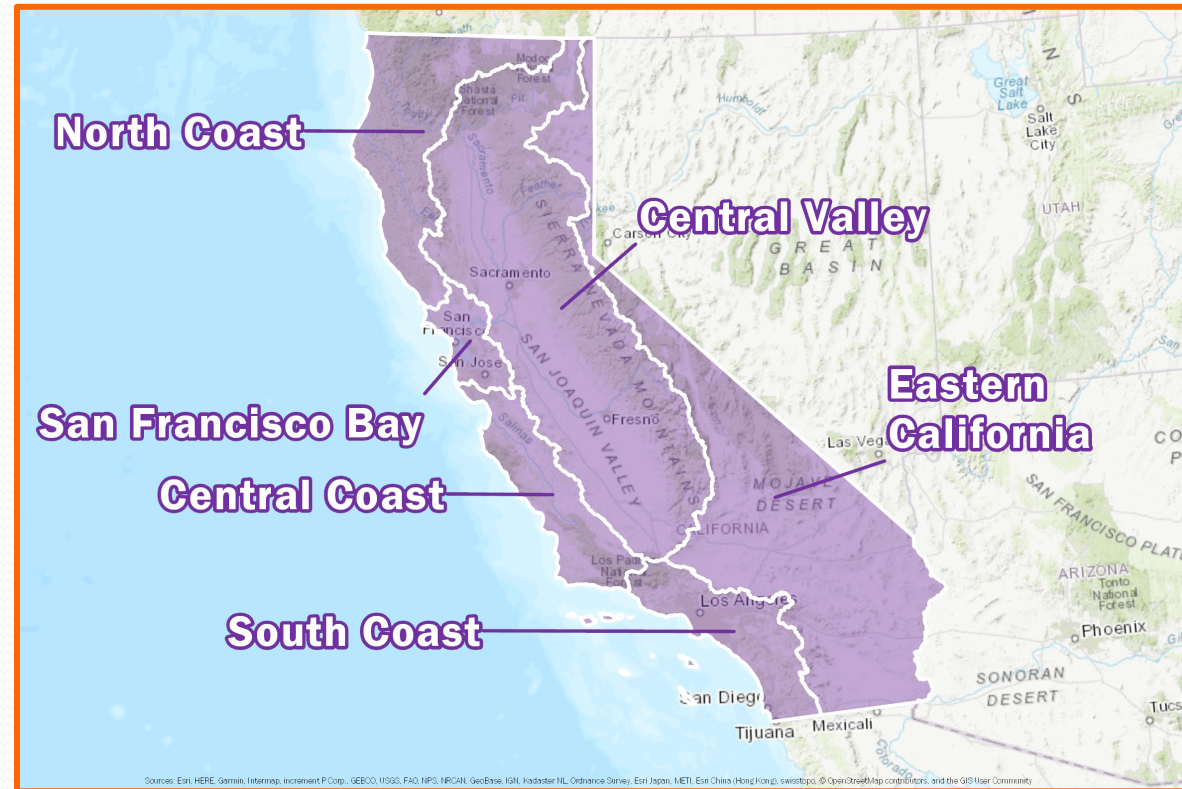
Water Boards Overview

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

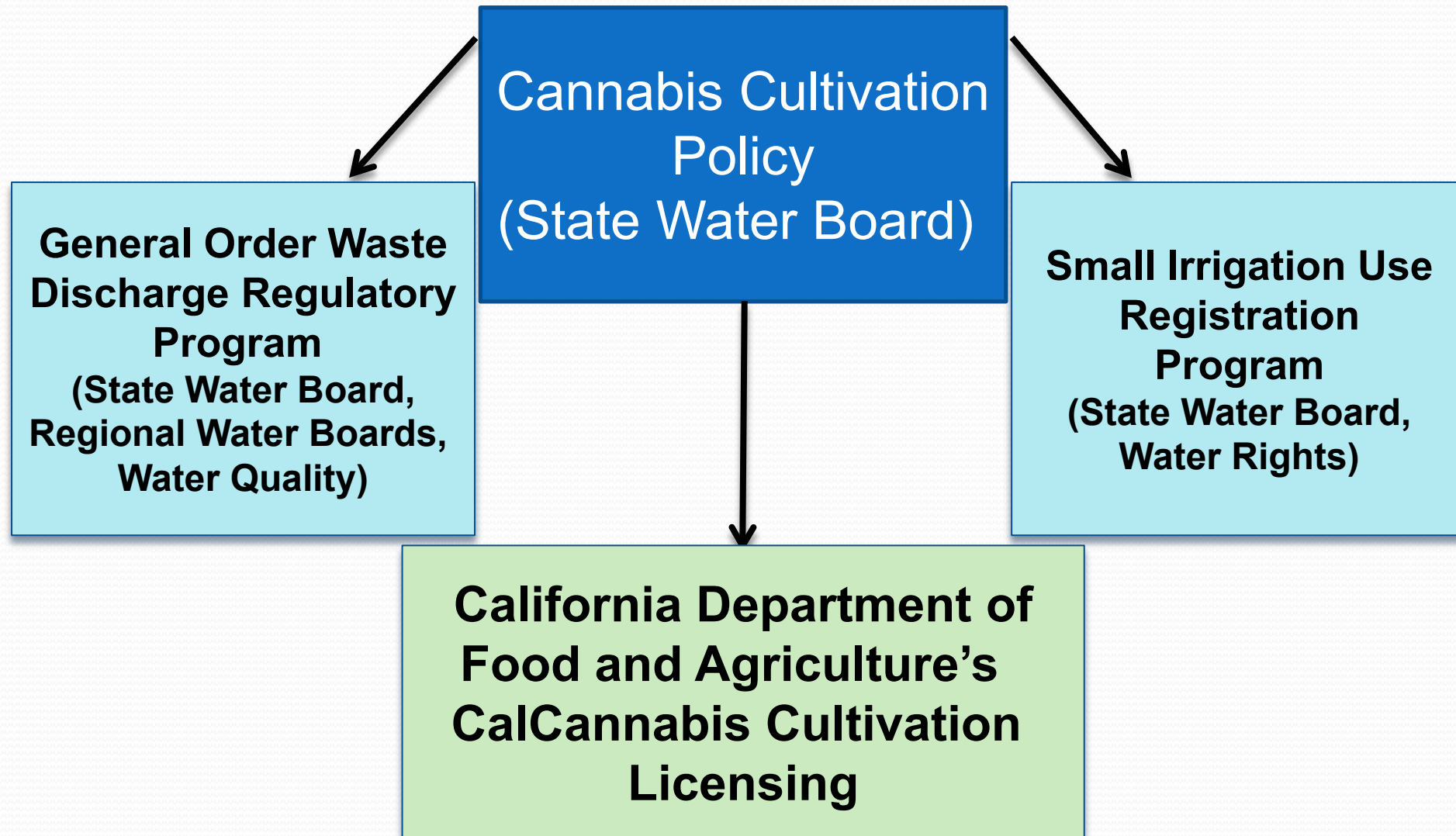
- **Primary Cannabis Program Components**
 - *The Cannabis Cultivation Policy –Principles and Guidelines for Cannabis Cultivation*
(Cannabis Policy)
 - *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities* **(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 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:

Low Risk	Moderate Risk	High Risk
No portion of the disturbed area is located on a slope greater than 30 percent <u>AND</u> all of the disturbed area complies with the setback requirements	Any portion of the disturbed area is located on a slope greater than 30 percent but less than 50 percent, <u>AND</u> all of the disturbed area complies with the setback requirements	Any portion of the disturbed area is located within the riparian setback requirements

Riparian Setbacks

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

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](http://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html)
(www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html)

Cannabis Cultivation General Order – Planning and Reporting

Initial Technical Reports

Tier	Risk Level	Technical Reports
Tier 1	All	Site Management Plan
Tier 1	Moderate	Site Erosion and Sediment Control Plan
Tier 1	High	Disturbed Area Stabilization Plan
Tier 2	All	Site Management Plan
Tier 2	Moderate	Site Erosion and Sediment Control Plan
Tier 2	High	Disturbed Area Stabilization Plan
Tier 2	All	Nitrogen Management Plan (if <i>cultivation area</i> exceeds 1 acre)

- 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](https://public2.waterboards.ca.gov/cgo)
 - 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

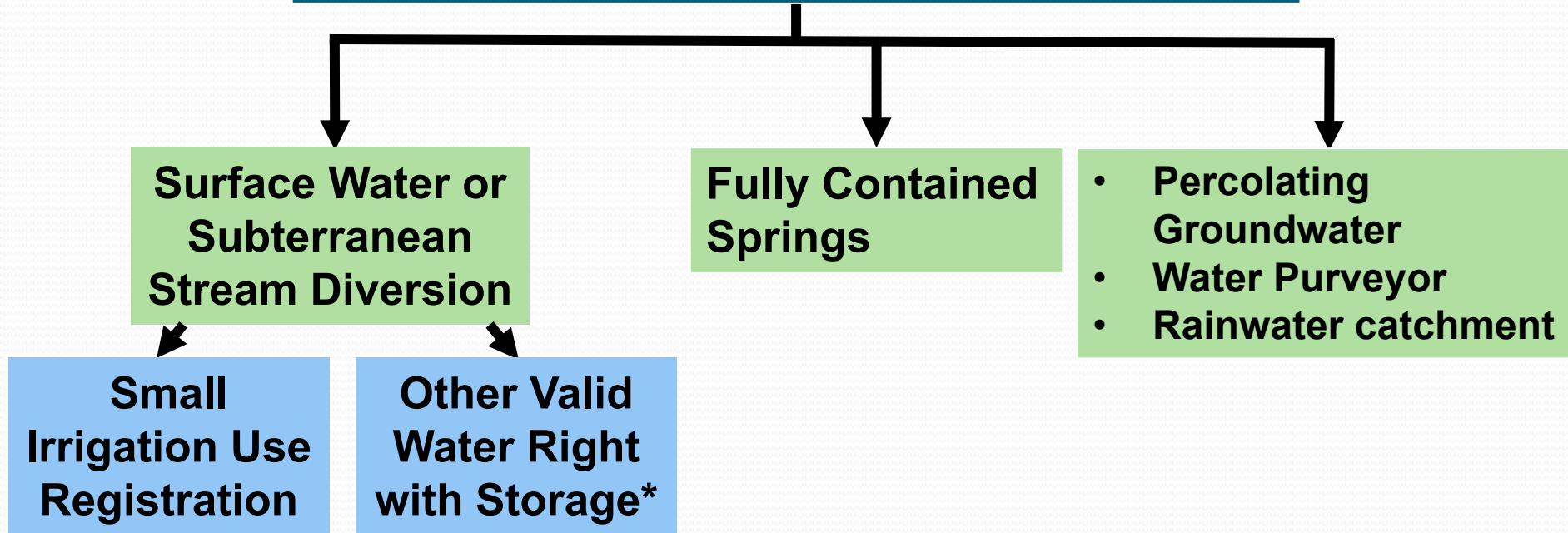
Report Guidance Resources

- [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



***Water right must allow sufficient storage to ensure supply during Cannabis Forbearance Period.**

Submit water source documentation to CDFA CalCannabis

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)

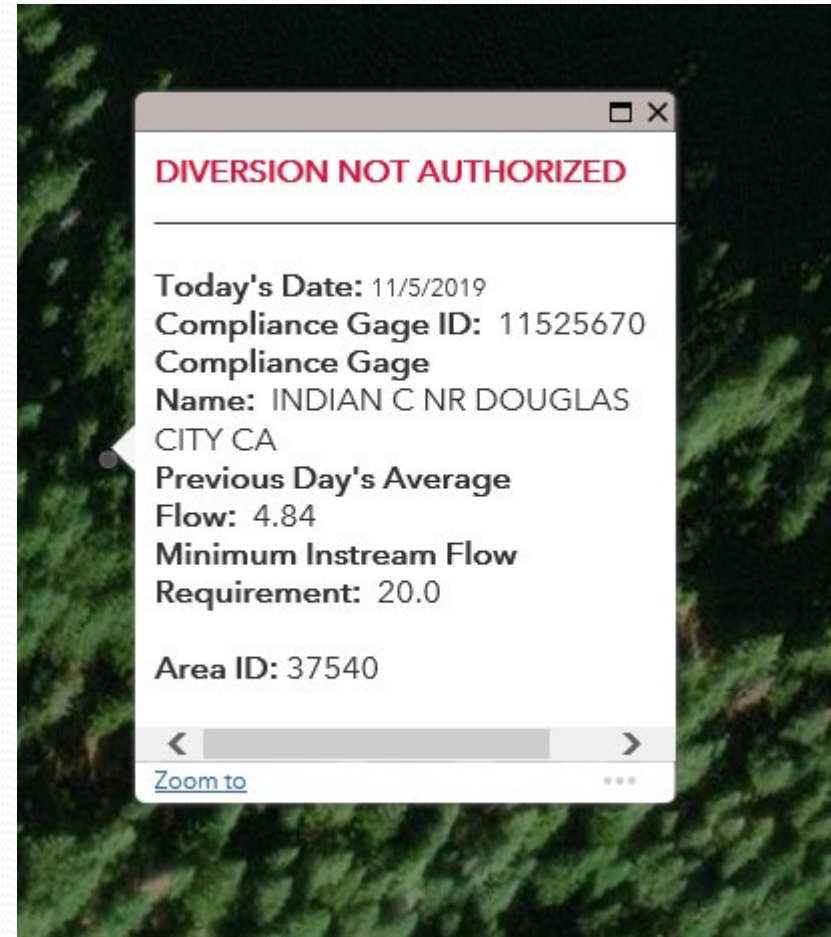
- Must comply with General Conditions, CDFW Conditions, and Cannabis Policy
- Max Diversion Amount: Up to 6.6 Acre-Feet per Year
- Max Diversion Rate: 10 Gallons per Minute

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

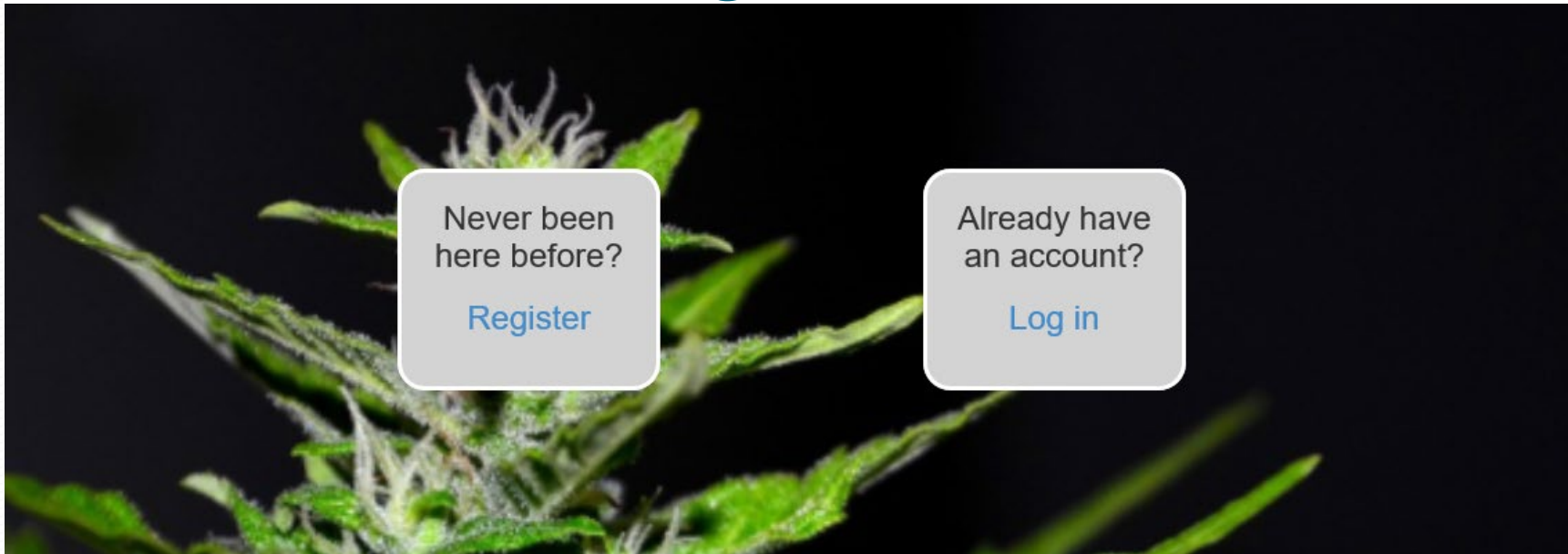
*Additional Fee for Onstream Reservoirs:

- \$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 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



INSPECTION

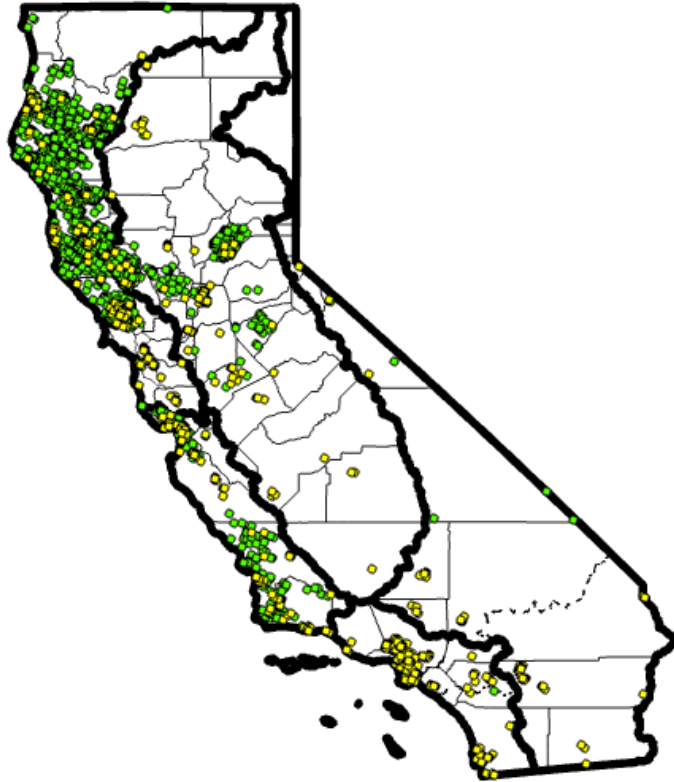
Passed
Failed

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
- 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](https://twitter.com/CAWaterBoards)



[@CAWaterBoardsCultivation](https://www.instagram.com/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:
 - https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf
- State Cannabis Policy with Attachment A:
 - https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf
- 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



STATE OF CALIFORNIA
Franchise Tax Board

2020

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.



Cannabis (Marijuana)

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



STATE OF CALIFORNIA
Franchise Tax Board

FTB Cannabis Business Resources



STATE OF CALIFORNIA
Franchise Tax Board

Search

[Archive Site](#)



Individuals

Businesses

Tax Professionals

Contact Us

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](#)



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File

Pay

Online Services



STATE OF CALIFORNIA
Franchise Tax Board

FTB Small Business Liaison

Telephone

• 916.845.4669



DFEH



Education and Outreach

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

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



CALIFORNIA LAW PROHIBITS WORKPLACE DISCRIMINATION & HARASSMENT

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 (40 and above)
- COLOR
- DISABILITY (physical, mental, HIV and AIDS)
- GENETIC INFORMATION
- GENDER IDENTITY, GENDER EXPRESSION
- MARITAL STATUS
- MEDICAL CONDITION (genetic characteristics, cancer or a record or history of cancer)
- MILITARY OR VETERAN STATUS
- NATIONAL ORIGIN (includes language use and possession of a driver's license issued to persons unable to prove their presence in the United States is authorized under federal law)
- RACE (including, but not limited to, hair texture and protective hairstyles. Protective hairstyles includes, but is not limited to, such hairstyles as braids, locks, and twists)
- RELIGION (includes religious dress and grooming practices)
- SEX/GENDER (includes pregnancy, childbirth, breastfeeding and/or related medical conditions)
- SEXUAL ORIENTATION



FAMILY CARE & MEDICAL LEAVE & PREGNANCY DISABILITY LEAVE

DFEH
THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
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.

Under the California Family Rights Act of 1993 you may have a right to a family care or medical leave for the birth, adoption, or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse. California law also prohibits employers from denying or interfering with requests for Pregnancy Disability Leave.

Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with us and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, and if we employ 50 or more employees at your worksite or within 75 miles of your worksite, you may have a right to a family care or medical leave (CFRA leave). This leave may be up to 12 workweeks in a 12-month period for the birth, adoption, or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse. If we employ less than 50 employees at your worksite or within 75 miles of your worksite, but at least 20 employees at your worksite or within 75 miles of your worksite, you may have a right to a family care leave for the birth, adoption, or foster care placement of your child under the New Parent Leave Act (NPLA). Similar to CFRA leave, the NPLA leave may be up to 12 workweeks in a 12-month period. While the law provides only unpaid leave, employees may choose or employers may require use of accrued paid leave while taking CFRA leave under certain circumstances and employees may choose to use accrued paid leave while taking NPLA leave.

Even if you are not eligible for CFRA or NPLA leave, if you are disabled by pregnancy, childbirth or a related medical condition, you are entitled to take a pregnancy disability leave of up to four months, depending on your period(s) of

if possible, you must provide at least 30 days' advance notice for foreseeable events (such as the expected birth of a child or a planned medical treatment for yourself or of a family member). For events that are unforeseeable, we need you to notify us, at least verbally, as soon as you learn of the need for the leave. Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until you comply with this notice policy.

We may require certification from your health care provider before allowing you a leave for pregnancy disability or for your own serious health condition. We also may require certification from the health care provider of your child, parent or spouse, who has a serious health condition, before allowing you a leave to take care of that family member. When medically necessary, leave may be taken on an intermittent or reduced work schedule.

If you are taking a leave for the birth, adoption, or foster care placement of a child, the basic minimum duration of the leave is two weeks, and you must conclude the leave within one year of the birth or placement for adoption or foster care.

Taking a family care or pregnancy disability leave may impact certain of your benefits and your seniority date. If you want more information regarding your eligibility for a leave and/or the impact of the leave on your seniority and benefits, please contact DFEH.

To schedule an appointment, contact the Communication Center below.

If you have a disability that requires a reasonable accommodation, the DFEH can assist you by scribbling your intake by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or you can contact us below.

Sexual Harassment; Transgender Rights



Sexual harassment is a form of discrimination based on sex/gender (including pregnancy, childbirth, or related medical conditions), gender identity, gender expression, or sexual orientation. 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 involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation or gender identity.

THERE ARE TWO TYPES OF SEXUAL HARASSMENT

1. **"Quid pro quo"** (Latin for "this for that") sexual harassment is when someone conditions a job, promotion, or other work benefit on your submission to sexual advances or other conduct based on sex.
2. **"Hostile work environment"** sexual harassment occurs when unwelcome comments or conduct based on sex unreasonably interferes with your work performance or creates an intimidating, hostile, or offensive work environment. You may experience sexual harassment even if the offensive conduct was not aimed directly at you. The harassment must be severe or pervasive to be unlawful. A single act of harassment may be sufficiently severe to be unlawful.

SEXUAL HARASSMENT INCLUDES MANY FORMS OF OFFENSIVE BEHAVIORS

- BEHAVIORS THAT MAY BE SEXUAL HARASSMENT:
1. Unwanted sexual advances

Actual or threatened retaliation for rejecting advances or complaining about harassment is also unlawful. Employees or job applicants who believe that they have been sexually harassed or retaliated against may file a complaint of discrimination with DFEH within three years of the last act of harassment or retaliation. DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If DFEH finds sufficient evidence to establish that discrimination occurred and settlement efforts fail, the Department may file a civil complaint in state or federal court to address the causes of the discrimination and on behalf of the complaining party. DFEH may seek court orders changing the employer's policies and practices, punitive damages, and attorney's fees and costs if it prevails in litigation. Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with DFEH and a Right-to-Sue Notice has been issued.

EMPLOYER RESPONSIBILITY & LIABILITY

All employers, regardless of the number of employees, are covered by the harassment provisions of California law. Employers are liable for harassment by their supervisors or agents. All harassers, including both supervisory and non-supervisory personnel, may be held personally liable for harassment or for aiding and abetting harassment. The law requires employers to take reasonable steps to prevent harassment. If an employer fails to take such steps, that employer can be held liable for the harassment. In addition, an employer may be liable for the harassment by a non-employee (for example, a client or customer) of an employee, applicant, or person providing services for the employer. An employer will only be liable for this form of harassment if it knew or should have known of the harassment, and failed to take immediate and appropriate corrective action.



WHAT DOES "TRANSGENDER" MEAN?

Transgender is a term used to describe people whose gender identity differs from the sex they were assigned at birth. Gender expression is defined by the law to mean a "person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth." Gender identity and gender expression are protected characteristics under the Fair Employment and Housing Act. That means that employers may not discriminate against someone because they identify as transgender or gender non-conforming. This includes the perception that someone is transgender or gender non-conforming.

WHAT IS A GENDER TRANSITION?

1. "Social transition" involves a process of socially aligning one's gender with the internal sense of self (e.g., changes in name and pronoun, bathroom facility usage, participation in activities like sports teams).
 2. "Physical transition" refers to medical treatments an individual may undergo to physically align their body with internal sense of self (e.g., hormone therapies or surgical procedures).
- A person does not need to complete any particular step in a gender transition in order to be protected by the law. An employer may not condition its treatment or accommodation of a transitioning employee upon completion of a particular step in a gender transition.

FAQ FOR EMPLOYERS

- **What is an employer allowed to ask?** Employers may ask about an employee's employment history, and may ask for personal references, in addition to other non-discriminatory questions. An interviewer should not ask questions designed to detect a person's gender identity, including asking about their marital status, spouse's name, or relation of household members to one another. Employers should not ask questions about a person's body or whether they plan to have surgery.
- **How do employers implement dress codes**

What are the obligations of employers when it comes to bathrooms, showers, and locker rooms?

All employees have a right to safe and appropriate restroom and locker room facilities. This includes the right to use a restroom or locker room that corresponds to the employee's gender identity, regardless of the employee's assigned sex at birth. In addition, where possible, an employer should provide an easily accessible unisex single stall bathroom for use by any employee who desires increased privacy, regardless of the underlying reason. Use of a unisex single stall restroom should always be a matter of choice. No employee should be forced to use one either as a matter of policy or due to harassment in a gender-appropriate facility. Unless exempted by other provisions of state law, all single-user toilet facilities in any business establishment, place of public accommodation, or state or local government agency must be identified as all-gender toilet facilities.

FILING A COMPLAINT

If you believe you are a victim of discrimination you may, within three years* of the discrimination, file a complaint of discrimination by contacting DFEH. To schedule an appointment, contact the Communication Center below. If you have a disability that requires a reasonable accommodation, the DFEH can assist you by scribing your intake by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or you can contact us below.

CONTACT US

Toll Free: (800) 684-1864
 TTY: (800) 700-2520
 contact.center@dfeh.ca.gov
 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, childbirth or related conditions (such as temporarily modifying your work duties, providing you with a stool or chair, or allowing more frequent breaks);
- Transfer you to a less strenuous or hazardous position (where one is available) or duties if medically needed because of your pregnancy; and
- Provide you with pregnancy disability leave (PDL) of up to four months (the working days you normally would work in one-third of a year or 17 1/3 weeks) and return you to your same job when you are no longer disabled by your pregnancy, or, in certain instances, to a comparable job. Taking PDL, however, does not protect you from non-leave related employment actions, such as a layoff.
- Provide a reasonable amount of break time and use of a room or other location in close proximity to the employee's work area to express breast milk in private as set forth in the Labor Code.

FOR PREGNANCY DISABILITY LEAVE:

- PDL is not for an automatic period of time, but for the period of time that you are disabled by pregnancy. Your health care provider determines how much time you will need.
- Once your employer has been informed that you need to take PDL, your employer must guarantee in writing that you can return to work in your same position if you require a written guarantee. Your employer may require you to submit written medical certification from your health care provider substantiating the need for your leave.
- PDL may include, but is not limited to, additional or more frequent breaks, time for prenatal or postnatal medical appointments, doctor-ordered bed rest, severe morning sickness, gestational diabetes, pregnancy-induced hypertension, preeclampsia, recovery from childbirth or loss or end of pregnancy, and/or postpartum depression.
- PDL does not need to be taken all at once but can be taken on an as-needed basis as required by your health care provider, including intermittent leave or a reduced work schedule, all of which counts against your four month entitlement to leave.
- Your leave will be paid or unpaid depending on your employer's policy; for other medical leaves. You may also be eligible for state disability insurance or Paid Family Leave (PFL), administered by the California Employment Development Department.
- At your discretion, you can use any vacation or other paid time off during your PDL.
- Your employer may require or you may choose to use any available time off during your PDL.
- Your employer is required to continue your group health coverage during your PDL at the same level and under the same conditions that coverage would have

NOTICE OBLIGATIONS AS AN EMPLOYEE:

- Give your employer reasonable notice. To receive reasonable accommodation, obtain a transfer, or take PDL, you must give your employer sufficient notice for your employer to make appropriate plans. Sufficient notice means 30 days advance notice if the need for the reasonable accommodation, transfer, or PDL is foreseeable, otherwise as soon as practicable if the need is an emergency or unforeseeable.
- Provide a Written Medical Certification from your Health Care Provider. Except in a medical emergency where there is no time to obtain it, your employer may require you to supply a written medical certification from your health care provider of the medical need for your reasonable accommodation, transfer or PDL. If the need is an emergency or unforeseeable, you must provide this certification within the time frame your employer requires, unless it is not practicable for you to do so under the circumstances despite your diligent, good faith efforts. Your employer must provide at least 15 calendar days for you to submit the certification. See your employer for a copy of a medical certification form to give to your health care provider to complete.
- Please note that if you fail to give your employer reasonable advance notice or, if your employer requires it, written medical certification of your medical need, your employer may be justified in delaying your reasonable accommodation, transfer, or PDL.

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

Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with us and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, and if we employ 50 or more employees at your worksite or within 75 miles of your worksite, you may have a right to a family care or medical leave (CFRA leave). This leave may be up to 12 workweeks in a 12-month period for the birth, adoption, or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse. If we employ less than 50 employees at your worksite or within 75 miles of your worksite, but at least 20 employees at your worksite or within 75 miles of your worksite, you may have a right to a family care leave for the birth, adoption, or foster care placement of your child under the New Parent Leave Act (NPLA). Similar to CFRA leave, the NPLA leave may be up to 12 workweeks in a 12-month period. While the law provides only unpaid leave, employees may choose or employers may require use of accrued paid leave while taking CFRA leave under certain circumstances and employees may choose to use accrued paid leave while taking NPLA leave.¹

¹CFRA and NPLA apply to all employees of the state of California and any other political or civil subdivision of the state and does not depend on the number of employees.

This notice is a summary of your rights and obligations under the Fair Employment and Housing Act (FEHA). For more information about your rights and obligations as a program employee, contact your employer, visit the Department of Fair Employment

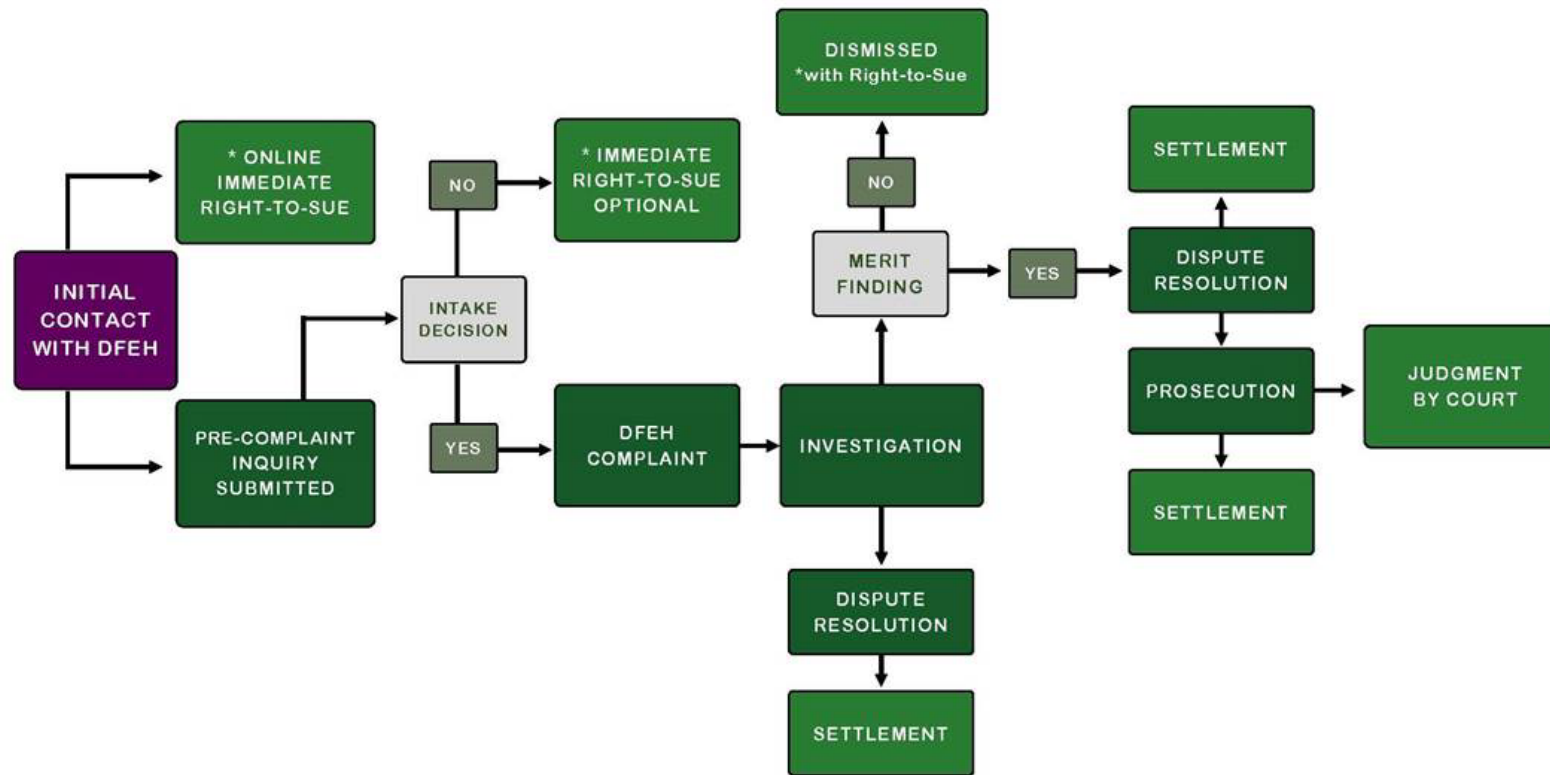
EQUITY AND SOCIAL JUSTICE

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:

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

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

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

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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?