

# State Water Resources Control Board

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## INSTRUCTIONS FOR NOTICE OF INTENT TO COMPLY WITH THE TERMS OF GENERAL 401 WATER QUALITY CERTIFICATION FOR ACTIVITIES COMPLYING WITH THE CANNABIS CULTIVATION POLICY

The *Cannabis Policy – Principles and Guidelines for Cannabis Cultivation* ([Cannabis Policy](#)) includes requirements that support a general water quality certification (Certification) that allows cultivators to obtain streamlined water quality certifications for cannabis cultivation-related activities requiring federal permit coverage under Clean Water Act (CWA) Section 404 or Safe Rivers and Harbors Act Section 10. Such water quality certifications are required under CWA Section 401.<sup>1</sup> The Notice of Intent (NOI) is the application form that should be filled out and submitted for review along with the application fee to apply for coverage under the Certification for your project.

### **Do you need coverage under the Cannabis General Water Quality Certification?**

Section 401 of the CWA requires Water Board certification for any federal permit or license authorizing impacts to waters of the United States (i.e., waters that are within federal jurisdiction), such as a permit issued under Section 404 of the CWA or Section 10 of the Safe Rivers and Harbors Act. The Water Board's certification ensures that any impacts to waters of the United States do not violate state water quality standards. Coverage under the Certification is needed only for cannabis cultivation-related activities that also require one of those two types of federal permits or licenses.

**STOP:** If your project requires a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, the NOI is not the correct form for obtaining water quality certification for your project. Instead, please contact the State Water Board's Division of Water Rights to obtain a copy of their Certification application:

**STOP:** If you answer 'yes' to either of the following questions, you should contact the appropriate Regional Board to discuss your project and determine where to send your NOI. A map of Regional Board boundaries and contact information are available at:

[https://www.waterboards.ca.gov/waterboards\\_map.html](https://www.waterboards.ca.gov/waterboards_map.html).

- Does this project involve an appropriation (e.g. diversion) of water?
- Does this project involve a diversion of surface water for domestic, irrigation, power, municipal, industrial, or other beneficial use?

### **What information do I need to submit to obtain Certification coverage?**

The Water Boards have regulations that identify the minimum required information and items that must be submitted for a complete application (Cal. Code of Regs., tit. 23, § 3856). The level of detail that is required to be submitted will vary depending on the project. The applicant is strongly encouraged to contact the Cannabis Regulatory Unit at the email listed at [dwq.cannabis@waterboards.ca.gov](mailto:dwq.cannabis@waterboards.ca.gov) with a subject line that includes: "Certification Question" or

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<sup>1</sup> The Certification terms are found in Attachment A of the Cannabis Policy.

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“Certification Application,” to discuss the appropriate level of detail for the required information and items that must be submitted for a complete application.

A Certification application also requires that you provide copies of any final and signed federal, state, and local licenses, permits, and agreements associated with construction, operation, maintenance, or other actions relevant to the project (or copies of the draft documents or submitted application, if not finalized; (or if no application is required, a confirmation letter from the appropriate permitting agency) {Cal. Code of Regs., tit. 23, § 3856, subd. (e)}). To avoid processing delays and minimize re-statement of facts included in other agency permits, use the appropriate text box(es) of the application to reference the attachment name, relevant section, and page number where the information may be located within the attachment.

### **Application Fee Information**

Submit only the Application Fee according to the project’s fee category with the initial application; additional Project and/or Annual Fees may be imposed based on application review. Application fees are required to determine an application complete. Fee amounts are currently determined according to California Code of Regulations, Title 23, section 2200, subdivision(a)(2), which contains the current fiscal year fee schedule. The fee schedule is available on the fees program webpage [https://www.waterboards.ca.gov/resources/fees/water\\_quality/](https://www.waterboards.ca.gov/resources/fees/water_quality/). Fees are subject to annual change. A fee calculator, which may be used to generate estimates for project budgeting, and additional fee information are available at the State Water Board’s Water Quality Certification and Wetlands Program webpage [https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/](https://www.waterboards.ca.gov/water_issues/programs/cwa401/). Fees may be paid by check or money orders, payable to the State Water Board and sent to:

***With a Check (Make check payable to "SWRCB Fees" and note invoice number on check)***  
SWRCB Accounting Office  
ATTN: Annual Fees  
PO Box 1888  
Sacramento, CA 95812-1888

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***Online by Credit Card or Electronic Fund Transfer (EFT):***  
***Invoice Payment Website***

**Note:** This Application Fee and the associated Annual Fee are due in addition to the enrollment and annual fees associated with coverage under Order WQ 2023-0102-DWQ (General Order) for cannabis cultivation waste discharge requirements or waivers thereof.

## **SECTION INSTRUCTIONS**

Each section below is in the same order as found in the NOI. The NOI should be filled out and submitted through the [Cannabis Cultivation Program Application Portal](#).

### **SECTION ONE– APPLICANT AND AGENT INFORMATION**

The applicant(s) listed shall be a legally responsible party for compliance with the Clean Water Act, California Water Code, Basin Plan(s), 401 Certification Conditions, and Waste Discharge Requirements. Applicant(s) may also appoint one or multiple agents. An agent is an individual

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authorized by an applicant to provide information to the State or Regional Water Board on behalf of the legally responsible party. (Cal. Code of Regs., tit. 23, § 3831, subd. (c)(1)).

### *APPLICANT/PROPERTY OWNER(S)*

**Applicant/Property Owner, Company Name:** Provide the full, legal company name of the applicant or responsible party. Most commonly, the applicant is the property and/or facility owner. If the applicant is an individual and not a company, indicate that a company name is not applicable. If the applicant is a company, corporation or other organization, a contact name (First, Middle Initial, Last) of the main representative of the company and their title must be provided. The applicant will be the entity or individual responsible for compliance with the Clean Water Act, California Water Code, applicable Water Quality Control Plans, and Cannabis Policy and General Order Conditions.

**Applicant Contact Information:** Telephone number, email address, and the applicant/company's mailing address (not the project address) including the street, city, state, and zip code must be provided.

### *STATEMENT OF AUTHORIZATION*

The Statement of Authorization must be filled out if an agent will be used during the processing of the NOI. If it is not completed and signed, the agent will not be allowed to make any modification to the NOI on behalf of the applicant.

### *AUTHORIZED AGENT*

**Consultant/Agent Company, Contact Name and Qualification:** The agent's role is to oversee the processing of the NOI and to make the day-to-day decisions regarding the NOI. It is not a requirement to have an agent. If you choose to be represented by an agent, provide the agent's information in this section of the form. If you choose not to be represented by an agent, leave this section blank. If the submitting consultant or agent is not a licensed professional, the appropriately qualified professional(s) need to be identified in the appropriate attachments with license number(s), as required in the Cannabis Policy.

**Consultant/Agent Contact Information:** Telephone number, email address, and the company's mailing address (not the project address) including the street, city, state and zip code must be provided.

## **SECTION TWO – PROJECT INFORMATION**

A complete application contains the overall project purpose and goal with a technically accurate description of the entire instream work activity and associated environmental impacts.

**Project Name or Title:** Include the name of the project that has been used in all other associated permits or correspondence with permitting agencies. Maintaining a consistent project name or title assists consistency when reviewing data from other agency permits and technical reports.

**Project Purpose and Overall Goal of Activity(ies):** Include a brief description of why the project is needed (e.g., to replace failing or undersized crossings or outlets, to modify or install stream crossing infrastructure to decrease sediment discharge, to remove unstable ponds, etc.) The immediate and

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long-term goals for the project should also be included. Provide enough description that the scope of all activities being applied for are covered.

**Project Street Address, City, County, Assessor's Parcel Number:** Provide the street address of the cultivation site and the town or nearest town to the site. This address should be in enough detail for a person to find the site by vehicle. The county and assessor's parcel number (APN) must both be provided as well. Please list all APNs associated with the cultivation site if the cultivation site spans multiple contiguous APNs.

**Cannabis General Order WDID:** Include the Cannabis General Order WDID number associated with the cultivation site.

**Project Map:** Provide a map of suitable detail, quality, and scale to easily identify the area and water body(ies) receiving any discharge (Cal. Code of Regs., tit. 23, § 3856, subds. (b), (h)(3)).

- Attach a site location map with aquatic resources clearly indicated.
- Map(s) may be provided in electronic format (e.g., shapefiles or KML/KMZ) or graphic formats (e.g., PDF or JPG), or sent as paper hard copies.
- A scale of at least 1:24000 (1" = 2000') is required for paper and graphic maps
- For additional guidance on map format and scale, consider following the [U.S. Army Corps of Engineers South Pacific Division Map and Drawing Standards](#).

**Coordinates:** Provide the latitude/longitude for the approximate project centroid. For linear projects, use the project midpoint.

**River(s), stream(s), lake(s), or wetland(s), and receiving watershed or waterbody:** These features should be identified in the map above but should also be listed here for clarity.

**Basin Plan Hydrologic Unit(s):** Basin plans for each water quality region can be found at [https://www.waterboards.ca.gov/plans\\_policies/](https://www.waterboards.ca.gov/plans_policies/). The Hydrologic Unit Code (HUC) defines the drainage basin(s) where the project will occur.

**Wild and Scenic Rivers:** Identify whether the river or stream segment affected by the project listed in the state or federal [Wild and Scenic Rivers Acts](#).

**Impaired Watersheds:** Identify whether the watershed listed as impaired under [Section 303\(d\) of the Clean Water Act](#). If the watershed is, provide the pollutant category(ies) identified for that watershed or stream segment.

**Total Maximum Daily Load (TMDL):** Identify if a [Total Maximum Daily Load](#) has been established for the impairment in the previous question and provide the TMDL name.

**Estimated Project Term, Seasonal Work Period, and Estimated Total Number of Workdays:** Provide both the beginning and end dates planned for the project, along with the season in which the work will occur (this mainly applies to multi-year projects). For example, if a project is expected to occur from June 2023-1 to June 2024, identify which months during that period that work will be active. Also provide the total expected number of days in that period that it will take to complete the work.

**Detailed Project Description:** This section should clearly describe each proposed project including the extent of activity in bed, channel, bank, or floodplain of the impacted surface water. If the text box provided is insufficient to describe the proposed projects, then this section should clearly identify where in the documents attached to the NOI detailed project information is located.

#### *Type of Instream Work*

Use the boxes in this section to identify the type(s) of waterbody(ies), infrastructure, and work associated with this NOI. Check all sections that apply to the project(s) in the NOI. Each section reads from left to right, for example in the “Pond” section if there is a pond involved in a project, select whether it is on-stream or off-stream, select the type(s) of infrastructure being worked on, and select the type of work for that infrastructure. In-Kind Replacement refers to replacing existing infrastructure with the same type of infrastructure (e.g., culvert to culvert, or rocked ford to rocked ford, etc.). Change of Type is a type of replacement where the existing infrastructure is changing from one type to another (e.g., rocked ford to culvert). New Installation applies to project work where no previous type of infrastructure existed at the work location.

#### *Total Project Size*

Include the complete project footprint (e.g., extent of all work/activities/construction that will be performed to meet the project goal). The total project size should include the total footprint (in acres) associated with the application and should identify the linear feet of stream channel impacted by the projects included in the application.

### **SECTION THREE –IMPACT AVOIDANCE AND MINIMIZATION MEASURES**

#### *Dredge and Fill Impact*

For each of the applicable water body type(s) listed below, indicate the area(s) in SQUARE FEET and LINEAR FEET that will be affected by each proposed project and identify the impact(s) as permanent or temporary. For project disturbance outside of waters of the United States, estimate the total disturbance in acres or square feet (linear feet does not apply) as “Non-jurisdictional Areas<sup>2</sup>.” Attach an additional table for projects with multiple impact sites, as needed. In the additional information sections, please identify exactly where in any attached documents information supporting the project size is located, if available. For example, the Streambed/Stream bank row may show multiple stream crossings similar to the example below:

- Crossing 1: 40 square feet and 20 linear feet of temporary impacts and 20 square feet and 5 linear feet of permanent impacts.
- Crossing 2: 60 square feet and 25 linear feet of temporary impacts and 15 square feet and 4 linear feet of permanent impacts

#### *Discharge and Impact Information*

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<sup>2</sup> “Non-jurisdictional Areas” are included for the purpose of coordinating project size with the California Department of Fish and Wildlife’s Lake and Streambed Alteration Agreement (LSAA), or 1600 Permit, which includes areas outside of waters of the United States.

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Select the appropriate box for each question and, if applicable, provide the requested information. If the information is located within an attached document, provide the exact location within that document where that information can be found.

### *Discharge Types and Amounts*

Select each of the types of materials that are likely to be discharged from the project activities. For each material type, estimate the amount and affect type. If this information is located within an attached document, provide the exact location where it can be found in the space at the bottom.

### *Additional Impact Information*

Provide information on both the direct impacts and the cumulative impacts expected from the project activities. If this information is located within an attached document, provide the exact location where it can be found in that document.

### *Impact Avoidance and Minimization Measures*

A description of any steps that have been taken (or will be taken) to avoid and minimize loss of or significant adverse impacts to beneficial uses of water of the state is required for a complete application. (Cal. Code of Regs., tit. 23, § 3856, subd. (h)(6).) List the appropriate measures (Best Practicable Treatment or Control {BPTC}) from Attachment A of the State Cannabis General Order (Order No. WQ 2023-0102-DWQ) and describe how that BPTC will be specifically met during the implementation of the proposed project. Please note that the impact avoidance and minimization measures must be covered by the terms of Attachment A; projects that rely on avoidance or minimization measures outside the Cannabis Policy and Cannabis General Order are not covered under the Certification. If this information is located within an attached document, provide the exact location where it can be found in that document.

### *Water Diversions and Dewatering Plan*

If this information is located within an attached document, provide the exact location where it can be found in that document.

## **SECTION FOUR – ADDITIONAL DOCUMENTATION REQUIRED**

Provide copies of any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents or submitted application, if not finalized) associated with construction, operation, maintenance, or other actions relevant to the project. If a draft or final document is not available, a list of all remaining agency regulatory approvals being sought should be included (Cal. Code of Regs., tit. 23, § 3856, subd. (e)).

## **SECTION FIVE – CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Water Board approvals of projects that are covered by the General Water Quality Certification under the Cannabis General Order and Cannabis Policy is exempt from CEQA pursuant to Water Code Section 13149 and California Code of Regulations, Title 14, section 15308 (See Cannabis General Order page 17, finding 47). If there is a specific CEQA document for the project, provide the information here.

## **SECTION SIX – SPECIAL STATUS SPECIES AND AQUATIC RESOURCES**

### **Special Status Species**

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If known, provide information about the presence of rare, threatened, or endangered species within the area where project activities will occur. Attach all biological assessments, surveys, formal consultation determination letters, and avoidance or minimization proposals, as applicable, and reference appropriate pages or sections.

### **Aquatic Resources**

**Note** this section must be filled out if this project may impact wetlands.

Attach any aquatic resource delineation reports (e.g. a wetland delineation report) and maps for all aquatic resources that may qualify as waters of the United States, including waters of the state that are outside of federal jurisdiction. Water Board staff will verify the presence or absence of waters of the state outside of federal jurisdiction during the application review process. (Cal. Code of Regs., tit. 23, § 3856, subd. (h)(7).)

A map verified as a United States Army Corps of Engineers preliminary jurisdictional determination may satisfy this requirement if it includes all potential waters of the state. The permitting authority may require that the map(s) be submitted in electronic format (e.g., shapefiles or KML/KMZ) (Cal. Code of Regs., tit. 23, § 3856, subd. (h)(8)).

### **SECTION SEVEN – SUBMISSION AND CERTIFICATION**

Please electronically sign and submit the application through the [Cannabis Cultivation Program Application Portal](#). The application will automatically be routed to the appropriate Regional Board.