

Notes from conference call with Hannah L. Nelson & Acting Bureau Chief of Licensing, Lindsey Rains and Attorney Crystal D'Souza from CDFA on 1/18/18

Request for follow-up

Problem: CDFA staff telling folks they have to only grow 50 plants regardless of square footage under a specialty license. 50 vs. 5000. [CDFA acknowledged problem and said it has been fixed. Agreed that law allows for 50 plants OR 5000 sq. ft.].

Problem: Law allows 6 month transition period where A and M can do business with one another but cultivators are disadvantaged because will have to submit complete applications before then if they want no gap in their Temporary licenses, since the annual application includes a site map requirement that forces the cultivator to designate A and M areas (and also requires two separate applications whereas now, under the Temporary License, they can just obtain one A or M for their entire site since A and M can do business with one another until June 30th). This effectively eliminates the benefit of the transition period for cultivators.

POSSIBLE SOLUTIONS:

a) Extend all Temporary Cultivation Licenses in good standing until after 6/30/18

b) Delay site plan requirement until after 6/30/18

Problem: How do cultivators figure out A vs M and the amount of square footage they should apply for under each? Given that currently, the areas must remain separate and once a product has been tagged, let's say as M, if it does not sell and it is returned to cultivator or distributor, (and under some other circumstances), it must be destroyed even if it is otherwise no different than the cultivator's A products and there was a market for it if it were re-designated as A.

a) Farming is uncertain and subject to crop failure.

b) The market is incredibly uncertain.

c) There IS an effective way to still Track and Trace and hold all product to a high accountability standard.

d) Small farmers and outdoor farmers are disproportionately negatively affected by this. If a farmer's M crop is wiped out and they have A crop that is fine and is otherwise the same strain, potency, etc., if they are unable to use the A crop to fulfill the M orders, they will be financially sunk.

It is true that ultimately, we need to get the Legislature to allow especially small cultivators to not have to designate A or M until it reaches the Distribution level. Please support our efforts to lobby the Legislature for such a change. In the mean time, there are things CDFA can do to help:

POSSIBLE SOLUTIONS:

- a) During Transition period (through 6/30), delay implementation of site plan A and M designations.**
- b) Do not charge change fees to small farmers needing to change their site and cultivation plan to re-designate A or M areas**
- c) Require Metric to allow small cultivators to retire UIDs that were designated A and immediately record them under M (or vice versa) for purpose of re-designation.**
- d) Propose changes to legislation to allow small farmers to not have to designate A or M until the distribution level.**
- e) Propose changes that would allow A or M product that passed all testing and QA for packaging, labeling etc., but that for one reason or another was not sold as initially packaged, to be returned to cultivator or distributor for re-labeling and re-sale under alternate A or M designation so long as it was Tracked and Traced as redesignated and it otherwise met all requirements.**

Problem: 120 day Temp license won't be extended unless application complete. Not complete if all water & environmental documents are not in hand and submitted.

- a) CDFW normally has to request more info within 30 days and make a determination within 60 days after receipt of that further info. They are now using a technique to ask for more info just at the end of the 30 day period, which then extends the 60 day decision point out. Sometimes they do this multiple times, asking for info in a drip, drip, drip. It winds up sometimes being much longer than the 9-0 days they are allowed by law.**
- b) Additionally, CDFW's online portal just went live a few weeks ago and is still not understood.**
- c) All cannabis related water regulations were only finalized a month ago.**
- d) CDFW is now requiring biological studies = \$5000 plus professionals are booked out some period of time.**
- e) CDFW is now claiming nearly any well = jurisdictional. If someone needs to fight it, takes time.**
- f) CDFW on-line portal now allows for self-certification if you think you do not need a LSAA/1602. However, we have NO IDEA of how long CDFW will take to review the on-line request. If CDFW determines that the person does need an LSAA, they then have to start by applying for it.**
- g) Water Board and CDFW are in conflict over two things:**

1. Whether certain water is jurisdictional or not (well, pond, ephemeral water course) and,
2. Forbearance/water storage. Additionally, some might have to go back and file water rights or SUIRs based on an interpretation of CDFW even if the Water Board previously told them (especially prior to October) that the issue was not jurisdictional.

Allegedly, these issues are being worked on by the agencies, though every time I go to a public meeting with one of them, there is never an update with information that these inconsistencies have been worked out. These conflicts cause further delays for cultivators to sign up and/or get determinations. Furthermore, a lot of people who were complying early-on, may have an entirely different situation under the NEW cannabis related water rules. SO, if someone was registered under the North Coast Regional Water Quality Control Board Order from 2015, and at the time they did that, they checked into the water rights issue, and at the time, they did not need an LSAA, they could be now in a completely different scenario based only on the rules changing. They very well might only be finding out about those changes now (if at all).

POSSIBLE SOLUTIONS:

Extend all Temporary Licenses through 6/30/18 if all materials have been submitted to appropriate agencies.

Next topic: when will you obtain your LiveScan fingerprint code? [CDFA stated they do not know when.]

Next topic: Is there any indication that CDFA will reduce the 2-4 week Backlog of processing applications for Temporary Licenses? [CDFA stated that they are working best they can.]

Next Topic: We need full example of entire regular/annual application process and requirements. [CDFA stated that there are materials being worked on but no time frame as to when they will be available.]

Next Topic: I have a client who is a very knowledgeable Nursery cultivator and has been quite involved in our local Track and Trace issues as a member of one of our County Working Groups and is now working with a consortium of Nurseries on these issues. Who at CDFA can he speak to about the various Nursery related issues he has found in the rules and in T&T? [CDFA stated that HN can email his contact info to them and they will forward it to the right person or email HN with the info on who to contact].

Next Topic: How can people get technical support with the online system? There seems to be a few bugs where folks cannot change things that need to be changed. [CDFA stated that the person must call the help hotline.]