

2016

Environmental Crimes Associated with the Cultivation of Cannabis



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Environmental Circuit Prosecutor Project
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NORTH COAST AND CENTRAL VALLEY REGIONAL WATER BOARDS' CANNABIS CULTIVATION PERMITTING PROGRAMS

Two of California's regional water boards that are most impacted by cultivation of cannabis have developed permitting systems that, although somewhat different, are largely similar in how they regulate certain cannabis cultivation sites within their jurisdiction. Each involves different tiers of permits and associated requirements, depending on the characteristics of the grow and potential impacts to water resources. Description of these programs is beyond the scope of this document. Please see the websites below for more information:

Region 1 (North Coast): http://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/

Generally, the permitting system applies to grows over 2,000 square feet.

Region 5 (Central Valley): http://www.waterboards.ca.gov/centralvalley/water_issues/cannabis/index.shtml

Generally, the permitting system applies to grows over 1,000 square feet.

Contacts

California Office of Emergency Services (OES)

OES handles release reports for the following to CUPAs and agencies, but this does not remove the duty of the responsible party to make the proper notifications:

Cal. State Warning Center – (916) 845-8911

HazMat Spill Notification – (800) 852-7550

State Air Resources Board – (800) 852-7550

See Release Reporting Requirement Matrix at:

<http://www.caloes.ca.gov/FireRescueSite/Documents/Release%20Reporting%20Matrix%20-%20Feb2014.pdf>

US EPA Region 9 Duty Officer – (800) 300-2193

(National Response Center)

CalFire – <http://www.fire.ca.gov/index>

Dean Cromwell, Chief, Law Enforcement

(916) 445-4302 – Use for non-emergency questions.

Department of Pesticide Regulation - <http://www.cdpr.ca.gov/>

Enforcement Branch – (916) 324-4100

(DPR may refer caller to County Ag Commissioner's Office)

Department of Toxic Substances Control

Duty Officers/Emergency Response (M-F 8:00 a.m. - 5:00 p.m.) –

(916) 255-6504 or (800) 260-3972

Duty Officers/Emergency Response – After Hours: (800) 852-7550

State Water Board – Matthew Buffleben, Senior Water Resources Control Engineer – (916) 341-5891

(Use for non-emergency questions; or call local regional board)

Department of Fish and Wildlife

CalTIP – (888) 334-2258

https://www.citizenobserver.com/tips/new?alert_group_id=3568

text message to: 847411: Enter "CALTIP" followed by message (all reports are anonymous)

Field Offices

Northern Region: (530) 225-2146

North Central Region: (916) 358-2900

Bay Delta Region: (707) 944-5500

Central Region: (559) 243-4005 ext. 151

South Coast Region: (858) 467-4201

Inland Deserts Region: (909) 484-0167

Marine Region: (831) 649-2870

Environmental Crimes Associated with Cultivation of Cannabis

Caveats

1. All crimes listed are misdemeanors unless otherwise stated. A separate section sets forth offenses that may be charged in a civil action.
2. Some statutes have been modified to make this document easier to use; this document should thus not be used for charging purposes.
3. There are a number of felonies listed in this document, including the Clean Water Act, Hazardous Waste Control Law, and pesticide-related violations where the violation potentially harmed human health or the environment. A “wobbler” is a crime that can be charged as either a misdemeanor or a felony.
4. The crimes listed below apply to most agricultural enterprises, but cannabis cultivation is the focus of this document given the severity of environmental harms often caused by it.

Notice an error or something that can be improved? Please send all comments and suggestions to Matt Carr at mcarr@cdaa.org.

Water Pollution, Stream Alteration, and Unlawful Diversion of Water	
F&G § 1602 <i>Obstruct flow, change, or use material from stream; Substantial diversion of Waters of the State (WOS)</i>	<p>An entity may not [1a] obstruct the natural flow of, or [1b] <i>substantially</i> divert the flow of, or [1c] <i>substantially</i> change, or [1d] <i>substantially</i> use any material from the bed, channel, or bank of [2] any river, <i>stream</i>, or lake, [3] without first notifying the Department of Fish and Game pursuant to Fish and Game Code section 1602(a)(1).</p> <p>[1] <i>Substantially</i> is not defined, but is more than a little. Would a jury in the jurisdiction call it “substantial?” Evidence of substantiality may include ecological effects of action. For diversion, aggregate water taken is not considered; rather, it is what portion of the flow during the act of diversion is taken: 5% is clearly not substantial; 10% is a maybe; 90% is a sure-win. Consider whether a jury would likely agree with your contention of substantiality before proceeding with this section.</p> <p>[2] A <i>stream</i> is a “body of water that flows at least periodically or intermittently through a bed or a channel having banks and supports fish or other aquatic life.” (14 Cal. Code Regs. § 1.72.) “A continuous flow of water is not necessary to constitute a stream.” (<i>Mogle v. Moore</i> (1940) 16 Cal.2d 1, 9.)</p> <p>In addition, an entity may not [1] deposit or dispose of [2] debris, waste, or other material containing crumbled, flaked, or ground pavement [3] where it may pass into any river, stream, or lake, [4] without first notifying the Department of Fish and Game pursuant to Fish and Game Code section 1602(a)(1).</p>
F&G § 5650(a)(1) <i>Petroleum in WOS</i>	<p>It is unlawful to [1a] deposit in, [1b] permit to pass into, or [1c] place where it can pass into the [2] <i>waters of the state</i> [3] any petroleum, acid, ... tar, ... asphalt, ... carbonaceous ... substance, or residuary product of petroleum.</p> <p>[2] <i>Waters of the state</i> means any surface water or groundwater, including saline waters, w/in California. (Water C. § 13050(e).)</p>
F&G § 5650(a)(6) <i>Substance or material deleterious to fish, plant life, mammals, or bird life in WOS</i>	<p>It is unlawful to [1a] deposit in, [1b] permit to pass into, or [1c] place where it can pass into the [2] <i>waters of the state</i> [3] any substance or material [4] <i>deleterious to fish, plant life, mammals, or bird life</i>.</p> <p>[2] <i>Waters of the state</i> means any surface water or groundwater, including saline waters, w/in California. (Water C. § 13050(e).)</p> <p>[4] <i>Deleterious to fish, plant life, mammals, or bird life</i>: can the substance harm fish, birds, mammals, and aquatic bugs?</p> <p>Note: Can include soil placed into a stream, or soil spoils piled where they could pass into a stream during a storm event. Loose soil can cause turbid (cloudy) water that harms fish, kills their prey, and decreases successful reproduction.</p> <p>Note: Authorities on-site should contact DFW to have wardens and/or biologists conduct a site visit and collect evidence.</p>

<p>F&G § 5652(a) <i>Disposal of trash within 150 ft. of high water mark of WOS</i></p>	<p>It is unlawful to [1a] deposit in, [1b] permit to pass into, or [1c] place where it can pass into the [2] <i>waters of this state</i> OR to [3a] abandon, [3b] dispose of, or [3c] throw away, [4] <i>within 150 feet of the high water mark of waters of the state</i>, [5] any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.</p> <p>[2] <i>Waters of the state</i> means any surface water or groundwater, including saline waters, w/in California. (Water C. § 13050(e).)</p> <p>[4] <i>Within 150 feet of the high water mark of the waters of the state</i> usually means from the stream bank or high tide mark.</p> <p>Note: Must prove either [1]+[2]+[5] or [3]+[4]+[5], or both.</p>
<p>F&G § 5901 <i>Obstructing fish passage thru stream</i></p>	<p>Except as otherwise provided in this Code*, it is unlawful to [1a] construct or [1b] maintain [2] <i>in any stream in most of California</i> [3] any device or contrivance that prevents, impedes, or tends to prevent or impede the passing of fish up and down stream.</p> <p>[2] The law applies to streams in specified “Fish & Game Districts,” a map of which is found at the back of the F&G Code. The law covers most of CA inland of the beach, except its extreme southeast (District 22), the Mendocino Coast (District 7), and most of extreme N.E. California (Modoc/Lassen/Siskiyou counties, District 1¾). (See F&G §§ 11001-11039.)</p> <p>[3] The most obvious example is a dam, but the law is worded broadly.</p> <p>* - It is unlikely that an exemption applies, but see Division 6 (Fish), Chapter 3 of the Fish & Game Code. Section 5901 is found therein.</p>
<p>Pen. C. § 374.7 <i>Littering or dumping into or within 150 ft. of a stream</i></p>	<p>It is unlawful to [1a] <i>litter</i> or dump or cause to be littered or dumped, [2] <i>waste matter</i> [3] into a bay, lagoon, channel, river, creek, slough, canal, lake, or reservoir, or other stream or body of water, or upon a bank, beach, or shore within 150 feet of the high water mark of a stream or body of water.</p> <p>[1a] <i>Littering</i> means the willful or negligent throwing, dropping, placing, depositing, or sweeping, or causing any such acts, of any waste matter on land or water in other than appropriate storage containers or designated areas. (Pen. C. § 374(a).)</p> <p>[2] <i>Waste matter</i> means discarded, used, or leftover substances including, but not limited to, a lighted or non-lighted cigarette, cigar, match, or any flaming or glowing material, or any garbage, trash, refuse, paper, container, packaging or construction material, carcass of a dead animal, any nauseous or offensive matter of any kind, or any object likely to injure any person or create a traffic hazard. (Pen. C. § 374(b).)</p>
<p>Pen. C. § 374.8(b) <i>Knowingly causing deposit of a hazardous substance on the land of another or in a WOS</i></p> <p><i>This is a WOBBLER</i></p>	<p>It is unlawful to [1] knowingly cause [2] any <i>hazardous substance</i> [3] to be deposited into or upon [4a] any road, street, highway, alley, or railroad right-of-way, [4b] or upon the land of another, without the permission of the owner, [4c] or into the <i>waters of this state</i>.</p> <p>[2] A <i>hazardous substance</i>, per Pen. Code § 374.8(c), is any material that:</p> <ul style="list-style-type: none"> • poses significant present/potential hazard to human health/safety or to environment if released to environment; OR • the manufacturer or producer is required to prepare a MSDS (Material Safety Data Sheet—required for many industrial chemicals. Contact County Environmental Health Officer to determine MSDS status.); OR • is listed in the “Hazardous Substances List” at http://www.dir.ca.gov/title8/339.html <p>See Labor Code §§ 6382 and 6360 and California Code of Regulations title 8, section 339; OR</p> <ul style="list-style-type: none"> • the administering agency or a handler has a reasonable basis for believing would be injurious to the health and safety of persons or harmful to the environment if released into the environment; OR is a radioactive material. <p>[4] <i>Waters of the state</i> means any surface water or groundwater, including saline waters, w/in California. (Water C. § 13050(e).)</p> <p>Note: Does not apply if deposit occurred as a result of an emergency that the person promptly reported to the appropriate regulatory authority. Prosecutors might also consider charging Water C. § 13261(c) for a violation of section 13260, which is set forth below. If theory of hazardous substance is the first-listed one, will require expert testimony. If MSDS req’d or on Hazardous Substances list, it’s much easier.</p>

<p>Pen. C. § 592 <i>Theft of water from a conveyance/reservoir</i></p> <p>WOBBLER given value of water or priors</p>	<p>Every person who [1] takes water from any [2] <i>canal, ditch, flume, or reservoir</i> [3] that is used for holding or conveying water [4] for manufacturing, agricultural, mining, irrigating, generating power, or domestic uses [5] without authority of the owner of a managing agent and [6] with the <i>intent to defraud</i>, is guilty of a misdemeanor.</p> <p>[2] “Canal” and “ditch” aren’t legally defined; a “flume” is “an elevated artificial channel, opened or closed” (8 C.C.R. § 320); and a “reservoir” is a body of water impounded by a dam (Water C. § 6004.5). These all seem to be human-made systems.</p> <p>[6] The “intent to defraud” appears to require an intent to deceive. (See Pen. C. § 8 and applicable case law.)</p> <p>If the value of the water is at/above \$950 <i>or</i> defendant has a prior water theft conviction, it’s a wobbler, with a 16/2/3 felony.</p> <p>Note: Consider charging Pen. Code § 498 if water is stolen from a water “utility.” Can be charged as grand theft in unusual case that value of the water stolen is more than \$950.00. (Pen. C. §§ 489-490.) Electricity theft may also apply.</p>
<p>Water C. § 13272 <i>Discharge of ≥ barrel* of oil or petroleum into WOS without notifying Office of Emergency Services</i></p> <p>\$500-5,000/1 yr. max.</p>	<p>It is unlawful to [1a] cause or [1b] permit [2] more than 42 gallons[†] of any oil or petroleum product [3a] to be discharged into any <i>waters of the state</i>, or [3b] to be discharged or deposited where it is, or probably will be, discharged into any <i>waters of the state</i>, [4] without notifying the Office of Emergency Services (OES) OR the appropriate regional water board per Water C. § 13267 or 13383 [5] as soon as is possible, once the person has knowledge of the discharge and such notification can be provided without substantially impeding cleanup or other emergency measures.</p> <p>[3] <i>Waters of the state</i> means any surface water or groundwater, including saline waters, w/in California. (Water C. § 13050(e).)</p> <p>Note: Does not apply to discharges to land unless pollutant would have gone into water but-for cleanup by government.</p> <p>Note: May be less than 42 gallons if regional board adopts a more stringent standard for that water body. (Water C. § 13272(f).)</p>
<p>Water C. § 13387 <i>Discharge of pollutants into navigable waters without filing a report with the Regional Board; Violates a Regional State Board Order; Discharge of pollutants to Navigable Waters without a permit</i></p> <p>WOBBLER depending on intent of violator: Knowing is a felony, and Negligent is a misdemeanor, unless there is a prior.</p>	<p>It is unlawful to [1a] <i>knowingly</i> or [1b] <i>negligently</i> [2a] violate <i>Water Code section 13376</i> (Report of Waste Discharges), [2b] violate any <i>Water Board order</i>, or [2c] violate any requirement of <i>section 301 of the Clean Water Act</i>. Note: other violations are not set forth here.</p> <p>[1a] <i>Knowingly</i> does not require knowledge that the pollutant they are discharging is listed, only knowledge that they are making a discharge to a <i>navigable water</i> (no mistake of law defense based on lack of knowledge of the listed pollutants).</p> <p>[1b] <i>Negligently</i> means a failure to take due and reasonable care to prevent discharge of pollutants.</p> <p>[2a] <i>Section 13376</i> prohibits discharges of [2a1] <i>pollutants</i> into [2a2] <i>navigable waters</i> [2a3] without filing a <i>report of waste discharge</i> in compliance with <i>Water Code section 13260</i>. Common pollutants associated with agriculture are in bold below:</p> <p>[2a1] <i>Pollutants</i>: dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. (33 U.S.C. § 1362(6).)</p> <p>[2a2] <i>Navigable waters</i>: generally, this includes navigable-in-fact rivers and streams (can a kayak go down it?), their tributaries and wetlands that are connected to them above-ground, and wetlands that alone or as a group have a significant effect on the physical, chemical, and biological properties of the water bodies such wetlands flow into. (See, e.g., <i>Rapanos v. U.S.</i>, 547 U.S. 715 (2006) and <i>Northern Calif. River Watch v. City of Healdsburg</i>, 496 F.3d 993 (9th Cir 2007).)</p> <p>[2a3] <i>Report</i>: report by the polluter to Regional Board, in compliance with <i>Water Code section 13260</i>.</p> <p>[2b] <i>Order</i>: an order issued by a regional board, including a Basin Plan establishing Total Maximum Daily Loads (TMDLs) for certain pollutants. Prohibition can include non-point source discharges of certain pollutants if TMDL in place. Contact regional board staff to determine if Order exists for the affected navigable water, and how such an order applies to the facts at hand.</p> <p>[2c] <i>Sec. 301 of CWA</i> (33 U.S.C. § 1311): prohibits [2c1] <i>discharge of pollutants to navigable waters</i> from a [2c2] <i>point source</i>.</p>

	<p>[2c1] <i>Discharge of pollutants</i>: addition of any <i>pollutant</i> to <i>navigable waters</i> from any <i>point source</i>. See list of <i>pollutants</i> in section [2a1] above, as well as definition of <i>navigable waters</i> that fall under ambit of this law. (33 U.S.C. § 1362(12).)</p> <p>[2c2] <i>Point source</i>: any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, etc. The term does <i>not</i> include return flows from irrigated agriculture. (33 U.S.C. § 1362(14).) Discharges from heavy equipment like excavators and tractors are, however, considered discharges from point sources pursuant to case law.</p>
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Pesticide-Related Violations **Consider calling local Agricultural Commissioner, Dept. of Pesticide Regulations, and/or CalOES**

Appendix B lists relevant Restricted Pesticides; Appendix C contains a Matrix of Certain Pesticides and Laws Implicated at Many Grow Sites; and Appendix D lists legal pest management practices for cannabis growers.

Since the term “pesticide” is used in all of the laws but has a particular meaning, it is set forth below:

“Pesticides” include herbicides and defoliants. Pesticides are defined to include “any substance” intended to be used for (a) defoliating plant growth, (b) regulating plant growth, or (c) preventing, destroying, repelling, or mitigating any pest. (Food & Ag. § 12753.) “Pest” is defined broadly and includes large animals all the way to bacteria and viruses. (Food & Ag. § 12754.5.)

CONSEQUENCES OF A PESTICIDE-RELATED VIOLATION: Misdemeanors, Felonies, and/or Civil Charges

Violation of every statute and regulation set forth below, except 3 C.C.R. 6614, is punishable per Food & Ag. § 12996 (misdemeanor/felony) and 12998 (civil) (because they are in or promulgated pursuant to Division 7 of the Food & Ag. Code). These are the “stronger” provisions to use.

Alternatively, violation of every *regulation* (but not statutes) below may be punished per Food & Ag. Code § 11891 (misdemeanor) and 11893 (civil) (because they were promulgated pursuant to Division 6 of the Food & Ag. Code).

Crimes (two-year statute of limitation, generally)

§ 12996: misdemeanor OR felony; up to six months in county jail; \$500-\$5,000 fine on first offense and \$1,000-\$10,000 fine on subsequent offenses; each violation is a separate offense. Felony chargeable if an intentional or negligent violation created or reasonably could have created a hazard to human health or the environment.

§ 11891: misdemeanor; **minimum 10-days county jail**, up to six months; \$500-\$5,000 fine; each violation a separate offense.

Civil Charges

§ 12998: civil penalties of \$1,000-\$10,000 for each violation are authorized for a first violation; subsequent similar violations and those that could cause a hazard to human health or the environment may be penalized from \$5,000 to \$25,000 per violation.

§ 11893: civil penalties of \$1,000-\$10,000 for each violation are authorized for a first violation. No consideration of priors in penalty.

3 Cal. Code Regs. § 6670 <i>Storage of pesticides where they cause a hazard to people, wildlife, or property</i>	<p>[1] Pesticides, emptied containers or parts thereof, or equipment that holds or has held a pesticide, shall not be [2] stored, handled, emptied, disposed of, or left unattended [3] in such a manner or at any place where they may present a hazard to persons, animals (including bees), food, feed, crops or property.</p> <p>Note: Agricultural Commissioner can take possession of offending pesticides and containers to abate a hazard (as defined above).</p>
3 Cal. Code Regs. § 6672(b) <i>Pesticides must be stored in a locked area</i>	<p>It is unlawful for [1] containers that hold or have held a pesticide [2] that are not under the personal control of the person who controls the use of the property on which the container is found [3] to be stored other than in a locked enclosure.</p> <p>Note: If the container is 55 gallons or more, it is sufficient if the container itself is locked; it need not be put into an enclosure.</p>
3 Cal. Code Regs. § 6674 <i>Warning signs for storage area</i>	<p>If a [1] storage area [2] contains containers that hold or have held <i>pesticides that must be labeled with the signal words “warning” or “danger,”</i> [3] a sign visible for 25 feet therefrom must be posted [4] which reads: “DANGER. POISON STORAGE AREA. ALL UNAUTHORIZED PERSONS KEEP OUT. KEEP DOOR LOCKED WHEN NOT IN USE.”</p> <p>[2] Read pesticide container or see Appendix B for list of pesticides that must be labeled with the words “warning” or “danger.”</p>
3 Cal. Code Regs. § 6680 <i>Pesticides in a food or household product container forbidden</i>	<p>In no case shall a pesticide be placed or kept in any container of a type commonly used for food, drink, or household products.</p>
3 Cal. Code Regs. § 6609 <i>Mixing, loading, storage of pesticides w/in 100 ft. of well</i>	<p>It is unlawful to, within 100 feet of a well: mix, load, or store pesticides, rinse spraying equipment, and maintain spraying equipment.</p> <p>Note: If well is situated and/or engineered such that irrigation and rain water will not contact or collect around the wellhead or any part of its foundation, this provision does not apply.</p>
3 Cal. Code Regs. § 6416 <i>Permit needed for application of RUP in Groundwater Protection Area</i>	<p>It is unlawful to [1a] possess OR [1b] use [2] without a permit [3] a pesticide containing a chemical in California Code of Regulations, title 3, section 6800 when the pesticide is [4] applied in agricultural, outdoor institutional, or outdoor industrial use [5] within a <i>runoff ground water protection area or ground water leaching protection area</i>.</p> <p>[2] Section 6800 contains most restricted use products (RUP) as well as Malathion and Carbaryl. See Appendix A for list.</p> <p>[5] <i>Ground water protection area/ground water leaching protection area</i>: Consult local regional board to determine status.</p> <p>Note: Must prove elements [2]-[5] and either [1a] or [1b]. Mere possession without evidence of use would make for a weak case.</p>
3 Cal. Code Regs. § 6614 <i>Protection of persons, animals, and property from pesticides</i>	<p>It is unlawful to [1] apply pesticide when: [2a] there is a reasonable possibility of contamination of the bodies or clothing of persons not involved in the application process; [2b] there is a reasonable possibility of damage to non-target crops, animals or other public or private property; or [2c] there is a reasonable possibility of contamination of non-target public or private property, including the creation of a <i>health hazard</i>, preventing normal use of such property.</p> <p>[2c] In determining a <i>health hazard</i>, consider amount and toxicity of the pesticide, type and uses of the property, etc.</p>

3 Cal. Code Regs. § 6616 <i>Apply pesticide to Property w/out Permission</i>	<p>It is unlawful to [1] directly discharge [2] a pesticide [3] onto a property [4] without the consent of the owner or operator of the property.</p>
3 Cal. Code Regs. § 6622 <i>Purchase or apply pesticide in production of agricultural commodity w/out operator ID from Ag. Commissioner</i>	<p>[1] Prior to [2] the purchase and use of a pesticide [3] for the production of an <i>agricultural commodity</i>, [4] the <i>operator of the property</i> (or the operator's authorized representative) shall obtain an operator identification number from the agricultural commissioner of each county where pest control work will be performed.</p> <p>[2] <i>Agricultural commodity</i> “means an unprocessed product of farms, ranches, nurseries and forests.” (3 Cal. Code Regs. § 6000.) Accordingly, “back yard grows” do not seem to fall under this requirement. Larger commercial grows probably do.</p> <p>[4] <i>Operator of the property</i> essentially means the owner, lessee, or other legal user. (3 Cal. Code Regs. § 6000.)</p>
Food & Ag. § 12972 <i>Use of pesticide must prevent drift</i>	<p>It is unlawful to [1] use pesticides in such a manner [2] that allows <i>substantial drift</i> to non-target areas.</p> <p>[2] <i>Substantial drift</i> means the quantity of pesticide outside of the area treated is greater than that which would have resulted had the applicator used due care. (3 Cal. Code Regs. § 6000.)</p>
Food & Ag. § 12973 <i>Use of pesticide in conflict with label</i>	<p>The use of any pesticide [1] shall not conflict with [2a] labeling registered pursuant to this chapter which is delivered with the pesticide or [2b] with any additional limitations applicable to the conditions of any permit issued by the director or commissioner.</p> <p>[2a] Registration status can be retrieved at http://www.cdpr.ca.gov/docs/label/prodnam.htm. Read labels for allowable uses.</p>
Food & Ag. § 12995 <i>Possession of unregistered pesticide</i>	<p>It is unlawful for [1] any person, acting alone or through another, [2] to possess or use any pesticide [3] that is either not registered pursuant to this chapter, or for which registration has been suspended.</p> <p>[3] All pesticides are registered by the Department of Pesticide Regulations. Registration status can be retrieved at http://www.cdpr.ca.gov/docs/label/prodnam.htm.</p> <p>Note: Contact Agricultural Commissioner to see if an exception by regulation or notice of suspension or cancelation applies to pesticide.</p>
Food & Ag. § 14015 <i>Possession of restricted pesticide only by certified private applicator or commercial applicator</i>	<p>It is unlawful to [1a] use or [1b] possess [2] a <i>restricted material</i> unless it is [3a] under the direct supervision of a <i>certified private applicator</i>, or a [3b] <i>certified commercial applicator</i>.</p> <p>[1a] Use means pre-application activities, application of pesticide, and post-application activities such as transportation, cleaning, and control and management of the application area. (3 Code Cal. Regs. § 6000.)</p> <p>[2] <i>Restricted material</i>: See Appendix B and http://1.usa.gov/22J6YZL (3 Code Cal. Regs. § 6400.)</p> <p>[3a] <i>Certified private applicator</i> means a private applicator holding a valid private applicator certificate issued by the Agricultural Commissioner (or the state director in any county where there is no commissioner). (3 Cal. Code Regs. § 6000.)</p> <p>[3b] <i>Certified commercial applicator</i>: Person holding a valid license, pest control aircraft pilot’s certificate, or applicator certificate issued by state Department of Pesticide Regulation director; technical certificate issued by vector control; or structural pest control operator/field representative license issued by Structural Pest Control Board. (3 Cal. Code Regs. § 6000.)</p> <p>Note: Contact county Agriculture Commissioner to determine if state regulation carves out from regulation the pesticide at issue.</p> <p>Note: Food and Agriculture Code sections 14006.5 and 14090 are similar to section 14015, but the latter is likely the better statute to use. It is not recommended to charge additional statutes based on the same act, as it is likely to engender confusion and will not likely result in more punishment due to Penal Code section 654’s likely application.</p>

Food & Ag. § 14011 <i>Catch-all provision</i>	It is unlawful for [1] any person [2] to apply [3] any <i>restricted material</i> for which regulations have been adopted [4] except as provided in the regulations which are adopted by the director. [2] <i>Restricted material</i> : See Appendix B and http://1.usa.gov/22J6YZL (3 Cal. Code Regs. § 6400.) [2] <i>Applicable regulations</i> : See title 3, California Code of Regulations, Division 6.
Labor Code § 6423 <i>Workplace safety re: pesticides</i>	Serious or repeated violations of workplace safety standards, including those relating to pesticides, may constitute misdemeanor violations of LC § 6423. At minimum, all workers must be provided equipment necessary to comply with pesticide safety labels. Contact the local Agricultural Commissioner or Cal/OSHA for further details on suspected pesticide worker-safety violations.

Poaching For penalties, see Fish and Game Code sections 12000 et. seq.	
F&G § 2000 <i>Take of any bird, mammal, fish, or reptile except in accordance with law</i>	It is unlawful to [1] <i>take</i> [2] any bird, mammal, fish, reptile, or amphibian [3] except as provided by law. [1] <i>Take</i> means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.) Note: Possession of a bird, mammal, fish, or reptile or parts thereof in or on the fields, forests, or waters of this state, or while returning therefrom with fishing or hunting equipment is prima facie evidence the possessor took the bird, mammal, fish or reptile. Note: This statute is appropriately charged as a companion to more specific game violations, similar to Fish and Game Code section 2002, set forth below. Note: F&G § 12012 sets forth a 3-year SOL for a misdemeanor unlawful take, if done “for profit or personal gain.” Likewise, the penalties for “personal gain”-related offenses are \$5,000 to \$40,000. (F&G § 12012.)
F&G § 2001(a) <i>Take outside of season</i>	It is unlawful to [1] <i>take</i> [2] mammals, birds, fish, reptiles, and amphibians [3] outside of established seasons. [1] <i>Take</i> means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.) [3] Seasons vary by species. For example, see California Code of Regulations, title 14, section 360 for deer (a portion of August-December, depending on location), and section 365 for bear (similar season to deer). Contact Game Warden for more info.
F&G § 2001(a) <i>Exceeding bag limits; exceeding possession limits</i>	It is unlawful to [1] exceed any [2] <i>bag limit</i> . [2] <i>Bag limits</i> means the maximum limit, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may be lawfully <i>taken</i> during a specific period of time. (F&G § 18.) Bag limits vary by county and species; document in field if unable to ascertain limit while in field. See California Code of Regulations title 14, § 360 for deer; a person may only take one bear per year per 14 Cal. Code Regs. § 365(c). It is unlawful to [1] exceed any [2] <i>possession limit</i> established in this code or by regulations. [2] <i>Possession limits</i> : the maximum number or amount of birds, mammals, fish, reptiles, or amphibians that may be lawfully possessed by one person. (F&G § 19.) Thus, possession limit will always equal or exceed the bag limit for a particular species. Note: F&G § 2001 states that either this section “or” a more animal-specific bag/possession limit statute may be charged.
F&G § 2002 <i>Possession of birds, mammals, etc. in violation of law</i> <i>See also F&G § 3801.6</i>	It is unlawful to [1] <i>possess</i> [2a] any bird, mammal, fish, reptile, or amphibian, or [2b] parts thereof, [3] <i>taken</i> in violation of any of the provisions of this code, or of any regulation made under it. [1] Possession can be constructive. Analogize to a group of people sitting around a pile of cocaine. [3] <i>Take</i> means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.) Note: As with F&G § 2000, this statute is likely to be charged along with a violation regarding manner/timing of take of animal.
F&G § 2007 <i>Trap guns prohibited</i>	It is unlawful to [1a] set, [1b] cause to be set, or [1c] place [2] any <i>trap gun</i> . [2] <i>Trap gun</i> : a firearm loaded with other than blank cartridges and connected with a string or other contrivance contact with which will cause the firearm to be discharged. (F&G § 2007.)

F&G § 2020 <i>Violation of Regulation</i>	It is unlawful to violate any regulation of Division 1 of Title 14 of the California Code of Regulations. Note: See F&G § 12000 <i>et. seq.</i> for penalties. Many violations of section 2020 are infractions.
F&G § 2080 <i>Violation of California Endangered Species Act (ESA)</i>	No person shall [1a] import into this state, [1b] export out of this state, or [1c] <i>take</i> , [1d] possess, [1e] purchase, or [1f] sell within this state, [2a] any endangered or threatened species, or [2b] any part or product thereof. Attempts to do the same are also unlawful. [1c] <i>Take</i> means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.) [2] Endangered plants and animals are listed in California Code of Regulations title 14, sections 670.2 and § 670.5, respectively. Federal and State classified endangered and threatened animals can also be found at www.dfg.ca.gov/wildlife/nongame/t_e_spp/ Note: Exceptions are detailed in the Native Plant Protection Act (NPPA) (F&G §§ 1900 <i>et seq.</i>) and the California Desert Native Plants Act (CDNPA) (F&A §§ 80001 <i>et seq.</i>). In addition, takes with federal Incidental Take Permits do not fall within ambit of this law. Note: Act may also be a violation of federal ESA. (See 16 U.S.C. § 1538(a).) That crime must be prosecuted in federal court.
F&G § 3513 <i>Taking birds specially protected under Migratory Bird Treaty Act</i>	It is unlawful to [1a] <i>take</i> or [1b] possess [2a] any migratory <i>non-game bird</i> as <i>designated in the Migratory Bird Treaty Act</i> or [2b] any part of such migratory <i>non-game bird</i> [3] except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act (MBTA). [1a] <i>Take</i> means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.) [2] <i>Non-game bird</i> . Fish and Game Code section 3500 lists all game birds; if a species is on the list it does not fall under the ambit of this statute and is regulated elsewhere in the Fish and Game Code as a game bird. Common game birds include quail, pheasants, grouse, turkeys, ducks, coots, pigeons, and doves. See Appendix F for a list of game birds. [2] Migratory Birds under the MBTA are listed at http://www.fws.gov/birdhabitat/Grants/NMBCA/Birdlist.shtm [3] Exceptions to MBTA include European starlings, common pigeon (rock dove), and other non-native species.
F&G § 3800 <i>Take of non-game bird</i>	It is unlawful to [1] take [2] any non-game bird [3] unless excepted by the Fish and Game Code or regulations promulgated thereto. [1] & [2]: see above. [3] Exceptions include English sparrows, starlings, and if crops or property is injured. (F&G §§ 3800-3806.)
F&G § 4304 <i>Waste of Game Animal</i>	It is unlawful to [1] leave through carelessness or neglect to go needlessly to waste [2] any <i>game mammal</i> or <i>game bird</i> , or any portion of the flesh usually eaten by humans. [2] Game birds are listed in F&G § 3500; game mammals are listed in F&G § 3950. See Appendix F for a list of these species. Note: This law does not apply to takes of black-tailed jackrabbits, muskrats, non-native red foxes, and red fox squirrels that are found injuring crops or other personal property (F&G §§ 4152 and 4183).
F&G § 4330 <i>Taking deer w/out tag</i> F&G § 4336(a) <i>Proper use of deer tag; reporting of take</i>	It is unlawful to [1] <i>take</i> [2] any deer [3] without <i>first procuring a deer tag or permit</i> authorizing the <i>taking</i> of that deer. [1] <i>Take</i> means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.) [3] See Code of California Regulations title 14, section 360 for deer tag regulations. Varies depending on location. Upon the killing of any deer, the hunter must immediately do all of the following to be in compliance with law: <ul style="list-style-type: none"> • Legibly fill out tag completely in permanent ink; • Cut out or punch out notches for month/date of kill; • Attach tag to antlers of antlered deer or ear if not antlered; • Keep tag on deer until 15 days after season closes; • Get the tag countersigned by a valid party as soon as possible before further transport (F&G § 4341); and • Notify Department of Fish and Game of take. Note: See Appendix D for Deer Zone Map.

F&G § 4336(b) <i>Possession of untagged deer</i>	It is unlawful to [1] possess [2] any untagged deer. Note: Section 4336 can be charged through §§ 2020, or 12000(a), which makes all violations of the code/regulations a misdemeanor.
F&G § 4750 <i>Unlawful to use jaw trap on bears</i>	It is unlawful to [1] <i>take</i> [2] a bear [3] by using iron or steel-jawed or other types of metal-jawed traps. [1] <i>Take</i> means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.)
F&G § 4750 <i>Taking bear w/out tag</i>	It is unlawful to [1] <i>take</i> [2] any bear with [3] firearm, trap, or bow and arrow [4] without first procuring a tag authorizing the <i>taking</i> of that bear in accordance with this chapter. [1] <i>Take</i> means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.) [4] See California Code of Regulations title 14, section 365 for bear-tag and other bear hunting restrictions.
F&G § 4753 <i>Proper use of bear tag; reporting of take</i>	Upon the killing of any bear, the hunter must immediately do all of the following to be in compliance with law: <ul style="list-style-type: none"> • Legibly fill out tag completely in permanent ink; • Cut out or punch out notches for month/date of kill; • Attach tag to ear of bear; • Keep tag on bear until 15 days after season closes; • Get the tag countersigned by a valid party as soon as possible before further transport (F&G § 4755); and • Notify Department of Fish and Game of take.
F&G § 4753 <i>Possession of untagged bear</i>	Note: Section 4753 can be charged through §§ 2020, or 12000(a), which makes all violations of the code/regulations a misdemeanor. It is unlawful to [1] possess [2] any untagged bear.
F&G § 4800(b) <i>Taking mountain lion w/o depredation permit or direct threat to person or livestock</i>	It is unlawful to [1a] <i>take</i> , [1b] injure, [1c] possess, [1d] <i>transport</i> , [1e] import, or [1f] sell [2a] any mountain lion or [2b] any part or product thereof, [3] except as specifically provided in this chapter. [1a] <i>Take</i> means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (F&G § 86.) [1d] <i>Transport</i> includes offer or receive for transportation. [3] Self-defense, defense of livestock being attacked, or take with depredation permit are common exceptions to the law. Note: Penalty prescribed in subsection (c): up to \$10,000 fine, plus standard misdemeanor terms.

Air Quality Violations	
H&S § 41800 <i>Prohibited outdoor fires</i>	<p>No person shall [1] use [2] open outdoor fires [3a] for the purpose of disposal or burning of petroleum wastes, demolition debris, tires, tar, trees, wood waste, or other combustible or flammable solid or liquid waste, [3b] or for metal salvage or burning of motor vehicles.</p> <p>Note: Health and Safety Code sections 41802 and 41804 exempt certain activities in a residential context, including residential brush burning. Consult local air district staff to determine if a specific outdoor disposal fire is permitted, as rules are air-basin specific.</p>
H&S § 42400(a) <i>Unlawful acts regarding air pollution – general prohibition statute</i>	<p>It is unlawful for [1] a person [2a] to violate a rule, [2b] to violate a regulation, [2c] to violate a permit, or [2d] to violate an order [3] issued by the local or state air board pursuant to Health and Safety Code sections 39000-42708, inclusive.</p> <p>[3] Includes nearly all air-pollution-related laws/rules/regulations that do not concern vehicles.</p> <p>Note: Civil and criminal proceedings are mutually exclusive per Health and Safety Code section 42400.7.</p> <p>Note: Penalties are increased for more culpable conduct and state of mind and can get very high. (See H&S § 42400-42410.)</p> <p>Note: Each day of violation is a separate offense. (H&S § 42400(e).)</p>
<i>Note re: diesel generators</i>	<p>Generally speaking, portable diesel generators rated at 50 brake horsepower (bhp) and greater must be permitted by the local Air District. (See e.g. Amador County APCD, Rule 402(C)(3); Shasta County AQMD Rule 3:28(C)(3); Yolo-Solano AQMD Rule 3.2(105).)</p> <p>That said, many local Air Districts exempt diesel generators used directly and exclusively for agricultural operations such as the growing of crops. (See, e.g., North Coast Unified AQMD Rule 102(D)(12); Placer County APCD Rule 203(A)(7); Yolo-Solano AQMD Rule 3.2 (105).) Consult local Air District staff to determine whether cannabis cultivation qualifies for such exemption.</p>



Example of a 50 b.h.p. generator.

Forestry Violations	
Pub. Res. C. § 4571(a) <i>Timber operations for commercial purposes [land conversion] without a permit</i>	<p>No person shall [1] engage in <i>timber operations</i> [2] until that person has obtained a license from CalFIRE.</p> <p>[1] <i>Timber operations</i> means the cutting or removal, or both, of timber or other solid wood forest products, including Christmas trees, from [a] <i>timberlands</i> for [b] a <i>commercial purpose</i>. Such operations include “incidental work” such as road building, stream crossings, etc. (Pub. Res. C. § 4527(a).)</p> <p>[a] <i>Timberlands</i> are lands which are available for and capable of growing a crop of trees of a commercial species used to produce lumber and other forest products. (Pub. Res. C. § 4526.) Oak woodlands do not usually qualify as such, nor do federal lands and state experimental forests. Consider Pen. Code sections 384a and 594, below, if not a “timberland.”</p> <p>[b] <i>Commercial purpose</i> is not only the selling and bartering of trees, but converting timberland to another use, such as a marijuana cultivation site. (Pub. Res. C. § 4527(a)(2).)</p> <p>Note: Certain activities are exempted under Public Resources Code section 4584, which are unlikely to apply at a marijuana cultivation site. Contact CalFIRE. A commonly used three-acre exemption does not apply unless the landowner applied for and got the exemption.</p> <p>Note: Violation is a misdemeanor per Public Resources Code section 4601; civil penalties are available through section 4601.1(a).</p>

<p>Pub. Res. C. § 4581 <i>Timber operations require timber harvest plan</i></p>	<p>[1] No person shall conduct <i>timber operations</i> [2] unless a <i>timber harvesting plan</i> (THP) <i>prepared by a registered professional forester</i> [3] has been submitted for such operations to CalFIRE.</p> <p>[1] <i>Timber operations</i> is defined above. It is nuanced.</p> <p>[2] <i>Timber harvesting plan prepared by a registered professional forester</i> means a plan in conformance with Pub. Res. C. § 4582.</p> <p>Note: The harvesting plan requirement is separate from and in addition to the license required by Public Resources Code section 4571. Contact local CalFIRE office to see if a Timber Harvesting Plan has been submitted for a given parcel.</p>
<p>Pub. Res. C. § 4601 <i>Violations of statutes, rules, or regulations are unlawful</i></p>	<p>It is unlawful to violate any provision of the Forest Practices Act (Pub. Res. C. §§ 4511-4628) or related CalFIRE rules and regulations. Regulations likely applicable include, but are not limited to:</p> <ul style="list-style-type: none"> • 14 Cal. Code Regs. § 916.3(c)—construction of wet-ford logging roads in Class I, II, III, or IV watercourses (14 Cal. Code Regs. § 936.9), wetland protection zone (WLPZ), marshes, wet meadows, and other wet areas are forbidden, unless explained in the Timber Harvesting Plan (THP) by the Registered Professional Forester (RFP) (14 Cal. Code Regs. § 895) and permitted by the Director of CalFIRE (14 Cal. Code Regs. § 895.1); • 14 Cal. Code Regs. § 916.3(b)—Accidental depositions of soil or other debris in lakes or below the watercourse or lake transition line in waters classed I, II, and IV (14 Cal. Code Regs. § 936.9) shall be removed immediately after the deposition or as approved by the Director. • 14 Cal. Code Regs. § 916.11.1—failure to implement protection measures in Coho salmon watersheds; • 14 Cal. Code Regs. § 923.2(d)—failure to stabilize slopes of a logging road near a watercourse; and • 14 Cal. Code Regs. § 923.4(c)—failure to maintain a logging road with water breaks maintained as specified in section 914.6. <p>Note: If there is evidence of a violation of one or more of the above regulations, consider calling CalFIRE for investigation expertise.</p>
<p>Pen. C. § 384a <i>Remove/Mutilate Tree, Plant, etc. w/o Written Permission</i></p>	<p>It is unlawful to [1] willfully or negligently [2] cut, destroy, mutilate, remove, sell, or offer for sale [3] most types of <i>plant life</i> [4] growing on public or private property that's not his/her own [5] without a specific <i>written permit</i>.</p> <p>[3] <i>Plant life</i> includes: trees, shrubs, ferns, herbs, bulbs, cactuses, flowers, huckleberry greens, redwood greens, & leaf molds.</p> <p>[5] The <i>written permit</i> must be notarized and signed by the landowner, and must state the nature of the requested cutting/removal and a legal description of the property on which it will occur.</p> <p>Note: Statute is best used when large trees, such as oaks, are cut down and are not included as “timberland” in the above statutes. Otherwise, the ambit of this statute is almost absurdly broad, and can include many routine, everyday occurrences.</p>
<p>Pen. C. § 594 <i>Vandalism</i></p> <p><i>WOBBLER if damage exceeds \$400</i></p>	<p>It is unlawful to [1] <i>maliciously</i> [2] damage or destroy [3] real or personal property not owned by the person.</p> <p>[1] <i>Maliciously</i> means only that the person intended to do a wrongful act.</p> <p>Note: Consider using this statute when trees are felled for cultivation sites but it is not “timberland” under Forest Practices Act (e.g., oak trees), or when roads, etc. are cut on another's land.</p> <p>Note: Court may require repair or replanting as a condition of probation or as restitution to victim.</p> <p>Note: Fines can be high, especially after penalty assessments.</p>
<p>Pen. C. § 602(a) <i>Trespass by Timber Cut w/o Permission</i></p>	<p>It is unlawful to [1] <i>willfully</i> [2] cut down, destroy, or injure [3] any kind of wood or timber [4] standing on or growing on the land of another [5] <i>by trespass</i>.</p> <p>[1] <i>Willfully</i> means a purpose or willingness to commit the act; does not require intent to violate the law. (Pen. C. § 7(1))</p> <p>[5] <i>By trespass</i> means, basically, without permission, i.e., “tortious infringement on rights of another.” (PG&E, 102 Cal.App. 422)</p> <p>Note: Triple damages may be collected in a civil suit for damages. (Code Civ. Proc. § 733)</p>

Littering/Dumping/Illegal Disposal	
<p>Pen. C. § 374.3(a) <i>Illegal dumping</i></p> <p>INFRACTION</p> <p><i>See also § 374.4, a “littering” law with a similar penalty scheme.</i></p>	<p>It is unlawful to [1a] dump or [1b] cause to be dumped [2] <i>waste matter</i> [3a] in or upon a public or private highway or road, including any portion of the right-of-way thereof, or [3b] in or upon private property into or upon which the public is admitted by easement or license, or [3c] upon private property without the consent of the owner, or [3d] in or upon a public park or other public property other than <i>property designated or set aside for that purpose</i> by the governing board or body having charge of that property.</p> <p>[2] <i>Waste matter</i> means discarded, used, or leftover substances, including, but not limited to, a lighted or non-lighted cigarette, cigar, match, or any flaming or glowing material; or any garbage, trash, refuse, paper, container, packaging or construction material, carcass of a dead animal, any nauseous or offensive matter of any kind, or any object likely to injure any person or create a traffic hazard (Pen. C. § 374(b)). Boldfaced forms of solid waste are most likely found on cannabis grow sites.</p> <p>[3c] For example, a city or county dump.</p> <p>Note: Each day the waste remains placed, deposited, or dumped is a separate violation. (Pen. C. § 374.3(c).)</p> <p>Note: Mandatory fines are \$250, \$500, and \$1,500 for first, second, and subsequent violations, before penalty assessments.</p> <p>Note: The court may require the defendant to clean the site or pay for such cleanup as a probation condition. (Pen. C. § 374.3(f).)</p>
<p>Pen. C. § 374.3(h)(1) <i>Disposal of waste matter in commercial quantities (>1 yd³)</i></p>	<p>It is unlawful for [1] a person to [2a] place, deposit, or dump, or [2b] cause to be placed, deposited, or dumped, [3] <i>waste matter</i> [4] <i>in violation of this section</i> [5] <i>in commercial quantities</i>.</p> <p>[1] <i>Person</i> means an individual, trust, firm, partnership, joint stock company, joint venture, or corporation. (Pen. Code § 374(i).)</p> <p>[3] <i>Waste matter</i> is defined above, under Penal Code section § 374.3(a).</p> <p>[4] The prohibited act must occur on certain property, as set forth in Elements [3a-3d] of Penal Code section 374.3(a), above.</p> <p>[5] <i>Commercial quantities</i> means an amount equal to or in excess of one cubic yard (27 cubic feet), OR an amount of waste matter generated in the course of a trade, business, profession, or occupation. (Pen. C. § 374(h)(2).)</p> <p>Note: This law does not apply to dumping of household waste at a person’s residence, unless nuisance or hazard. (Pen. C. § 374(d).)</p>
<p>Pen. C. § 374.8(b) <i>Knowingly causing deposit of a hazardous substance on the land of another or in a WOS</i></p> <p><i>This is a WOBBLER</i></p>	<p>It is unlawful to [1] knowingly cause [2] any <i>hazardous substance</i> [3] to be deposited into or upon [4a] any road, street, highway, alley, or railroad right-of-way, [4b] or upon the land of another, without the permission of the owner, [4c] or into the <i>waters of this state</i>.</p> <p>[2] A <i>hazardous substance</i> is any material that:</p> <ul style="list-style-type: none"> • poses significant present/potential hazard to human health/safety or to environment if released to environment; OR • the manufacturer or producer is required to prepare a MSDS (Material Safety Data Sheet—required for many industrial chemicals. Contact County Environmental Health Officer to determine MSDS status.); OR • is listed in the “Hazardous Substances List” at http://www.dir.ca.gov/title8/339.html See Labor Code §§ 6382 and 6360 and California Code of Regulations title 8, section 339; OR • the administering agency or a handler has a reasonable basis for believing would be injurious to the health and safety of persons or harmful to the environment if released into the environment; OR • is described as a radioactive material. <p>[4] <i>Waters of the state</i> means any surface water or groundwater, including saline waters, w/in California. (Water C. § 13050(e).)</p> <p>Note: Does not apply if deposit occurred as a result of an emergency that the person promptly reported to the appropriate authority. If theory of hazardous substance is the first-listed one, will require expert testimony. If MSDS req’d or on Hazardous Substance list, it’s much easier.</p>

<p>H&S § 117555 <i>Depositing sewage/ septic tank effluent/ solid waste</i></p>	<p>It is unlawful to [1a] place, deposit, or dump, or cause to be placed, deposited, or dumped, or [1b] cause or allow to overflow, [2] sewage, sludge, cesspool or septic tank effluent, accumulation of human excreta, or solid waste, [3a] in or upon a street, alley, public highway, or road in common use or [3b] upon a public park or other public property other than property designated or set aside for that purpose, or upon private property without the owner's consent.</p> <p>Note: Deposits on private property with permission are allowed under the statute so long as it does not create a public health, safety, or fire hazard, or a nuisance as determined by the local enforcement agency.</p>
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Nuisance (See <i>People v. McDonald</i> (2006) 137 Cal.App.4th 521.)	
<p>Pen. C. §§ 370, 372 <i>Public Nuisance</i></p>	<p>Anything which is [1a] injurious to health, or [1b] is indecent, or [1c] offensive to the senses, [2] so as to interfere with the comfortable enjoyment of life or property by [3] an entire community or neighborhood, or by any considerable number of persons, is a public nuisance. In addition, an obstruction to the free use of or passage through lakes, rivers, bays, streams, canals, basins, public parks, public squares, or highways may be considered a nuisance as defined in Penal Code section 370.</p> <p>[2] Result of the act must interfere with comfortable enjoyment of life/property, but interference need not be substantial; and</p> <p>[3] A “considerable amount of persons” must be affected, but they need not be affected directly.</p> <p>Note: Pen. C. § 373(a) may also be used to pursue a nuisance abatement, following warning by DA or health officer.</p>

Hazardous Waste Disposal	
<p>H&S § 25189.5(b) <i>Unlawful disposal of hazardous waste</i></p> <p><i>This is a WOBBLER</i></p>	<p>It is unlawful to [1a] <i>knowingly dispose</i> of or [1b] <i>knowingly</i> cause the <i>disposal</i> of or [1c] or <i>dispose</i> or cause <i>disposal</i> when one should have reasonably known they were <i>disposing</i> or causing <i>disposal</i> of [2] any <i>hazardous waste</i> at [3] <i>an unauthorized point or a facility which does not have a permit</i>.</p> <p>[1] <i>Knowingly</i> only requires that the actor had knowledge of the facts, not the law. Circumstantial evidence of knowledge may exist when, for example, a labeled pesticide container is abandoned and left in the open: the actor knows both that he abandoned it, and he knows what the substance is. (See <i>People v. Taylor</i> (1992) 7 Cal.App.4th 677.)</p> <p>[1] <i>Disposal</i> means discharge, deposit, injection, dumping, spilling, leaking, or placing hazardous waste onto land or water so it may enter the environment, such as air or water; or abandonment of hazardous waste. (22 Cal. Code Regs. § 66260.10.)</p> <p>[2] <i>Hazardous waste</i> must both be (a) waste, and (b) hazardous.</p> <p>(a) <i>Waste</i> is any material which has been discarded. (H&S § 25124 and 22 Cal. Code Regs § 66261.2.) This means, among other things, that the waste was relinquished, disposed of, or burned/incinerated.</p> <p>(b) <i>Hazardous</i> means that the waste exhibits the properties of toxicity, carcinogenicity, ignitibility, or reactivity. A list of such substances is attached as Appendix C and can be found at California Code of Regulations title 22, section 66261.126, Appendix X. Weed killer, un-rinsed pesticide containers, pesticides, and insecticide are among those substances listed as “hazardous.”</p> <p>[3] An <i>unauthorized point</i> is any place where disposal occurs for which there is no permit for such disposal.</p> <p>Note: Storage of hazardous waste may be an alternative legal theory.</p> <p>Note: Use a plea form; priors can be later alleged for enhanced penalties per § 25189.4.</p>
<p>H&S § 25190</p>	<p>It is unlawful to violate any provision of the Hazardous Waste Control Law (H&S §§ 25100-25258.2) or any regulations or rules promulgated under that law.</p> <p>Note for Prosecutors: Defendant must use a plea form; offense is priorable.</p>

Pen. C. § 374.8(b) <i>Knowingly causing deposit of a hazardous substance on the land of another or in a WOS</i>	Discussion of this crime is set forth in the Water Pollution section of this document, page 2. <i>This is a WOBBLER</i>
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Possible County Code Violations Please contact local agencies for details regarding the respective county ordinances they enforce. Shasta County Code sections are provided as an example, but county approaches to these issues vary.	
<i>Illegal grading</i>	Often an infraction, but may be a misdemeanor or include civil penalties in some jurisdictions. Usually only triggered when grading is in excess of one acre, or past a certain depth. Can include grow sites or roads to them. (Shasta Co. Code §§ 12.12.040 & 12.12.050.)
<i>Illegal sewage disposal</i>	Dwellings must provide for proper sewage disposal. Camps associated with grow-ops likely violate these provisions. See also Health and Safety Code section 117555, as set forth in the littering section above. (Shasta Co. Code § 8.40.030.)
<i>Must inhabit only proper structures</i>	Long-term camps, live-in travel-trailers, and other similar structures may violate county codes. Dwellings must be up to county building, fire, and other codes. (Shasta Co. Code §§ 16.04.015 (buildings require permits); 17.88.280(B) (illegal habitation of RV on private property); and 8.52.040 (illegal camping).)
<i>Illegal wells</i>	Wells must be permitted by the local county Department of Environmental Health. (Shasta Co. Code § 8.56.030.)
<i>Erosion controls</i>	Some counties require installation of erosion control devices such as straw wattles and grass seedling when grading is done. Note that Regional Water Quality Control Boards' respective Basin Plans may also have like restrictions having to do with required erosion control measures, and violations thereof may constitute violations of Water Code section 13387(a)(3), which is set forth above.
<i>Storage of garbage</i>	County codes often prohibit the "storage" of garbage and other materials out in the open, on the ground. The landowner, rather than the person storing the items, may be liable. (Shasta Co. Code §§ 8.32.110; see also Del Norte Co. Code § 7.08.310(B)(8).)
<i>Cannabis cultivation and sales regulations</i>	Counties and cities sometimes have specific regulations that govern the cultivation and sales of cannabis within those jurisdictions. (Shasta Co. Code § 17.88.320(D).)

POTENTIAL CIVIL REMEDIES	
F&G § 1615— <i>Substantial Stream Alteration/Diversion, Civil Remedy</i>	For violations of F&G § 1602, above, section 1615 allows for a penalty of up to \$25,000 per violation. Penalty factors are specified. See also F&G § 12025 penalty enhancement, below, which applies in addition to the penalty set forth in this section.
F&G § 5650.1— <i>Water Pollution, Civil Remedy</i>	For violations of F&G § 5650, above, section 5650.1 allows for a penalty of up to \$25,000 per violation. Penalty factors are specified. See also F&G § 12025 penalty enhancement, below, which applies in addition to the penalty set forth in this section.

F&G § 12025—
Enhanced Civil
Remedies re Stream-
Related Laws

The chart below details the enhanced penalties that apply to “the production or cultivation of a controlled substance” (i.e., cannabis) when one of the following laws is violated, depending on whether the property is owned/leased by the violator or not:

Code Section	Short Description of Law	Enhanced Penalty –“Trespass Grows” [§ 12025(a)]	Enhanced Penalty – Violator Owns/Leases Land [§ 12025(b)]
F&G § 1602	Obstruct flow, change, or use material from stream; substantial diversion water	\$10,000	\$8,000
F&G § 5650	Water pollution - state waters	\$40,000	\$20,000
F&G § 5652	Littering near a stream	\$40,000	\$20,000
Pen. C. § 374.3(a)	Dumping (littering)	\$40,000	\$20,000
Pen. C. § 374.3(h)(1)	Dumping in commercial quantities	\$40,000	\$20,000
Pen. C. § 374.8(b)	Illegal dumping of hazardous substance	\$40,000	\$20,000
Pen. C. § 384a	Cut trees without notarized permission	\$10,000	\$10,000
Pub. Res. C. § 4571(a)	Cut timber for commercial purpose w/out timber harvesting license	\$10,000	\$8,000
Pub. Res. C. § 4581	Cut timber for commercial purpose w/out Timber Harvesting Plan	\$10,000	\$8,000
F&G § 2000	Unlawful take of bird, mammal, fish, reptile, or amphibian	\$10,000	\$8,000
F&G § 2002	Unlawful possession of bird, mammal, fish, reptile, or amphibian	\$10,000	\$8,000

“Trespass Grows” include those on land under the management of the Department of Parks and Recreation, the Department of Fish and Wildlife, the Department of Forestry and Fire Protection (CalFIRE), the State Lands Commission, a regional park district, the United States Forest Service, the United States Bureau of Land Management, and very large TPZ landowners, i.e., those “within the respective ownership of a timberland production zone, as defined in Chapter 6.7 (commencing with Section 51100) of Part 1 of division 1 of title 5 of the Government Code, of more than 50,000 acres.” (F&G § 12025(a).)

For *non-trespass grows*, each day a violation “occurs or continues to occur” shall constitute a separate violation. If the grow is a trespass grow, oddly, it seems that a “per day” penalty cannot be pursued. (Compare § 12025(a) with 12025(b)(2).)

Penalties are to be apportioned as follows:

- 30% to county, with funds to be first used to reimburse the DA for any investigation/prosecution;
- 30% to the investigating agency to reimburse costs directly related to the investigation; and
- 40% to Timber Regulation and Forest Restoration Fund used for grants to remediate effects of grows. (§ 12025(d).)

The Dep’t of Fish & Wildlife has been granted powers to pursue these cases administratively. The recently approved regulations for DFW’s administrative program can be found in title 14 of the California Code of Regulations, section 748.5 (2016)

<p>F&G § 12025.1— <i>Enhanced Civil Remedies re Blocking Fish Passage</i></p>	<p>In addition to any other penalties provided for by law, a violation of section 5901, relating to blocking fish passage, is punishable by a civil penalty of up to \$8,000.</p> <p>Each day that a violation of section 5901 occurs or continues without a good faith effort by the person to cure the violation after receiving notice from DFW shall constitute a separate violation.</p> <p>Penalties associated with cultivation of cannabis shall be apportioned as set forth in sec. 12025, above.</p>
<p>Food & Ag. § 11893— <i>Pesticide Container Violations, Civil Remedy</i></p>	<p>Violation of every pesticide-related <i>regulation</i> (but not statutes) set forth in this document may be punished per Food & Ag. § 11893, because they were promulgated pursuant to Division 6.</p> <p>Section 11893 allows for civil penalties of \$1,000-\$10,000 for each violation.</p> <p>Consider using section 12998, below, in lieu of, or in addition to, this statute, as 12998 is more powerful.</p>
<p>Food & Ag. § 12998— <i>Pesticide Use Violations, Civil Remedy</i></p>	<p>Violation of every pesticide-related statute and regulation set forth in this document, except 3 CCR 6614, is punishable through a civil penalty per Food & Ag. § 12998, because they are in or promulgated pursuant to Division 7.</p> <p>Section 12998 allows for civil penalties of \$1,000-\$10,000 for each violation when a first violation; subsequent similar violations and violations that could cause a hazard to human health or the environment may be penalized from \$5,000 to \$25,000 per violation.</p> <p>You may also likely allege violations of section 11893 in the same complaint.</p>
<p>H&S § 25189.2— <i>Mismanagement of Hazardous Waste, Civil Remedy</i></p> <p><i>See also § 25189, which contains similar prohibitions with a higher mens rea (intentional or negligent) and the same penalties.</i></p>	<p><i>Catch-all.</i> A penalty of up to \$25,000 is authorized for a [1] person who [2] violates a provision of Division 20, Chapter 6.5 of the HSC, or a permit, rule, regulation, standard, or requirement promulgated under said Chapter 6.5. (H&S § 25189.2(b).)</p> <p><i>Mislabeling.</i> A penalty of up to \$25,000 is authorized for a person who [1] makes a false statement or representation [2] in a ... label, manifest, or other document, [3] used for purposes of compliance with Division 20, Chapter 6.5. (H&S § 25189.2(a).)</p> <p><i>Disposal and Storage.</i> [1a] <i>Disposal</i> or [1b] <i>storage</i> of a [2a] <i>hazardous waste</i> (or extremely hazardous waste) [3] at an <i>unauthorized point</i>, is punishable by a civil penalty of up to \$25,000. (See H&S § 25189.2(c) and (d).)</p> <p>[1a] <i>Disposal</i> means discharge, deposit, injection, dumping, spilling, leaking, or placing hazardous waste onto land or water so it may enter the environment, such as air or water; or abandonment of hazardous waste. (22 Cal. Code Regs. § 66260.10.)</p> <p>[1b] <i>Storage</i> generally means accumulation of the hazardous waste for over 90 days, so long as certain conditions are met. (22 Cal. Code Regs. §§ 66262.34 and 66260.10.)</p> <p>[2a] <i>Hazardous waste</i> must both be (a) waste, and (b) hazardous.</p> <p>(a) <i>Waste</i> is any material which has been discarded. (H&S § 25124 and 22 Cal. Code Regs § 66261.2.) This means, among other things, that the waste was relinquished, disposed of, or burned/incinerated.</p> <p>(b) <i>Hazardous</i> means that the waste exhibits the properties of toxicity, carcinogenicity, ignitibility, or reactivity. A list of such substances is attached as Appendix C and can be found at California Code of Regulations title 22, section 66261.126, Appendix X. Weed killer, un-rinsed pesticide containers, pesticides, and insecticide are among those substances listed as “hazardous.”</p> <p>[3] An <i>unauthorized point</i> is any place where disposal occurs for which there is no permit for such disposal.</p>

	<p>Note: Each day that the waste is stored or disposed of, and no action is taken under agency or other official guidance to remedy the situation, constitutes a separate violation. (<i>Id.</i>)</p> <p>Note: These penalties are separate and in addition to any other penalty provided for by law. (H&S § 25189(f).)</p> <p>Note: Prior violations of 25189 or 25189.2 can be later alleged for enhanced penalties of \$5,000-\$50,000 per day, per § 25189.4.</p>
H&S § 11470.1— <i>Recovery of Remediation Costs</i>	<p>This section authorizes the recovery of expenses of seizing, eradicating, destroying, or taking remedial action with respect to controlled substances such as cannabis. In the author’s opinion, it does not apply to grows under Prop 215, as it only applies to cultivation “in violation of this division,” i.e., the Uniform Controlled Substances Act, under which Prop 215 is codified. Further, it only pertains to hazardous substances, so unfortunately does not cover drip line, litter, and other items that require clean-up. Finally, the term “remedial action” seems to only cover “permanent solutions” and not mere removal of a substance.</p> <p>It seems that section 11470.2, which covers remediation in the context of a criminal prosecution, suffers from the same defects.</p> <p>The author is, however, open to differing opinions on the applicability of this statute to cannabis grows that require remediation.</p>
H&S § 42402 <i>et seq.</i> — <i>Unlawful Release of Air Contaminants</i>	<p>Any person who emits an air contaminant and thereby violates any statute ... or any rule, regulation, permit, or order is:</p> <p>42402: strictly liable for a civil penalty of up to \$1,000.</p> <p>42402.1: liable, if negligently emitted air contaminant, for a civil penalty of up to \$25,000.</p> <p>42402.2: liable, if knew of emission and failed to take corrective action, for a civil penalty of up to \$40,000.</p> <p>42402.3: liable, if willfully and intentionally emits an air contaminant, for a civil penalty of up to \$75,000, except if emitter is a corporation, in which case maximum penalty is \$500,000.</p> <p>Example: Intentional garbage fire, in violation of H&S § 41800, if willful and intentional, may result in \$75,000 in liability for violator.</p> <p>Note: Civil and criminal proceedings are mutually exclusive per Health and Safety Code section 42400.7.</p> <p>Note: If injury occurred, especially if great bodily injury, penalties may be enhanced; see various subdivisions of sections cited above.</p>
Code Civ. Proc § 733— <i>Triple Damages for Timber Trespass</i>	<p>A person who willfully and maliciously cuts down or injures any tree on the land of another (or public land) is liable to the owner of such land for three times the amount of the damages which might be assessed for damages to that/those trees.</p> <p>Note: triple damages are in the sole discretion of the court.</p>

Miscellaneous Authorities

<p>Vehicle Code § 2810.2</p> <p><i>Stop and seizure of vehicles with unlawfully possessed irrigation supplies</i></p>	<p>On [1] unpaved or rock roads that are [2a] through <i>large or designated Timber Production Zones</i> (“TPZ”) or [2b] <i>on most government property</i> [3] <i>in a county that has implemented this statute</i> [4] a vehicle carrying <i>agricultural irrigation supplies</i> [5] in plain view [6] may be stopped by a peace officer [6] to inspect the bills of lading, shipping, or delivery papers, or other evidence that the driver is in legal possession of the load [7] and upon reasonable suspicion that the irrigation supplies are unlawfully possessed [8] the peace officer may seize the vehicle and said unlawfully possessed agricultural irrigation supplies and turn them over to the local county sheriff.</p> <p>[2] Such lands include those on land under the management of the Department of Parks and Recreation, the Department of Fish and Wildlife, the Department of Forestry and Fire Protection (CalFIRE), the State Lands Commission, a regional park district, the United States Forest Service, the United States Bureau of Land Management, and very large TPZ landowners, i.e., those “within the respective ownership of a timberland production zone, as defined in Chapter 6.7 (commencing with Section 51100) of part 1 of division 1 of title 5 of the Government Code, of more than 50,000 acres.” See statute for details.</p> <p>[3] Check to see if your county has implemented this statute by resolution/ordinance. https://www.municode.com/library/ca</p> <p>[4] <i>Agricultural irrigation supplies</i> are defined to include agricultural irrigation water bladders and one-half inch diameter or greater irrigation line.</p>
<p>F&G §§ 12015 and 12016</p> <p><i>Liability for Removal of Pollutant or Obstruction to Waterway</i></p>	<p>12015. Any person responsible for [1a] polluting, [1b] contaminating, [1c] obstructing or [1d] despositing or discharging materials <i>threatening to pollute, contaminate, or obstruct</i> [2] a water of the state [3] to the detriment of fish, plant, bird or animal life in such waters [5] shall be required to remove any material threatening to pollute, contaminate, or obstruct such water of the state, or to pay the DFW for the costs to remove the same.</p> <p>For definitions, see F&G 1602 and 5650, above, in the water pollution section.</p> <p>12016. Any person who [1a] discharges or [1b] deposits [1c] allows a situation that threatens to deposit [2] any substance deleterious to fish, plant, bird, or animal life or their habitat, [3] is liable for all actual damages to fish, plant, bird, or animal life or their habitat <u>and</u> [4] the reasonable costs of [a] cleaning up the deleterious material, [b] abating its effects, or both.</p> <p>[1-2] In other words, one who violates section 5650 of the Fish & Game Code, set forth above.</p> <p>[3] This is liability both for the critters that were harmed, and for their habitat, i.e., the rivers, trees, and other places they live.</p> <p>[4] This combines with sec. 12015 to provide somewhat overlapping authority for requiring a site remediation or paying for it.</p>

APPENDIX A

Suggestions re Charging & Plea Offers in Cultivation Cases

Consider the following charging and settlement tips, to ensure that sites are restored and dealt with adequately:

1. **Charge environmental crimes associated with cultivation of cannabis, particularly when the site needs restoration.** While it may be possible to charge felonies that carry greater consequences, they do not necessarily allow for site restoration. Fish & Game Code section 12015 requires site restoration by defendants, and plea bargain authority allows the DA to require site restoration (assuming not a “charge-bargain” county). Charging the misdemeanors thus becomes important. Also, charging environmental crimes allows the prosecutor to tell the whole story to the jury and sentencing court about why “this” grow site was particularly problematic.
2. **Get “Harvey Waivers” on environmental crimes that are dismissed pursuant to a plea.** Should the plea be to charges not related to site restoration, with a Harvey Waiver, the court reserves jurisdiction to have the cultivation site restored, per the above authorities, even if those counts are dismissed.
3. **Order compliance with any NOVs issued, particularly by DFW.** Agencies may have issued notices of violation (NOVs) or other compliance orders that require the violator do certain things to restore the property, including re-grading to remove or improve roads or stream obstructions, removal of pollutants, cleanup of hazardous substances, planting of trees to replace cut trees, and so forth. Consider having the court order the violator(s) to comply with the NOV (or other such order) *nunc pro tunc*, that is, as if the order was issued on the date of the plea. The NOV thus becomes a court order. Defendant should agree because site restoration is legally required by sec. 12015 of the Fish & Game Code and s/he still gets a plea bargain.
 - a. *Consider modifying the NOV to make dates sensible/practical*, and consider that often deadlines are set for October 15, to ensure that all work is done prior to the rainy season. Ensure term of probation is long enough for the work to be done and its success to be evaluated. Work these practical issues out in advance with the defense so that at the time of the plea, you have a workable work-plan as a term of the probation order.
 - b. *If the NOV is vague, fix it*, by either (1) having an amended NOV issued by DFW prior to the plea, or (2) stating on the record what the DA will require that’s different to the NOV’s terms. Vague terms mean difficult-to-enforce terms. Ensure to place on record that violator is responsible for ensuring that any permits required are secured. Bring copies of the NOV to court so that the court can review and include in the file.
 - c. *Secure a right of consent* for agency staff to see the property and assess compliance. Consider requiring monitoring reports if NOV doesn’t.
 - d. *If the NOV merely requires creation of a Corrective Action Plan, require such CAP to be prepared by a licensed engineer* (if CAP doesn’t already require it), and ensure that your terms of probation require not only compliance with the NOV (which requires preparation of a CAP), but *implementation* of the CAP as well, by a specified date the defendant agrees is reasonable. If the CAP must be stamped by a licensed engineer, it limits the ability of violators to prepare a deficient CAP and avoids arguments regarding sufficiency.
4. **Include cost of damage to environment in resolution, if water pollution has caused damage to the environment that can be calculated.** Sections 12015 and 12016 of the Fish & Game Code requires a polluter to pay for all damage to fish, plants, birds, or animals *and their habitat* caused by their water pollution, as well as do cleanup.
5. **Remind defense counsel that cases with site restoration requirements are different, and require a bit more post-sentencing oversight.** Put on the record that the defendant knows exactly what is required by the plea deal, including the terms of any NOVs. Prepare for post-judgment work.
6. **Calendar NOV deadlines.** Work with defense to ensure the work is done. File Violation of Probation petition if necessary, and remind the defense that jail is possible if the terms of the plea deal are violated. Consider performance deadlines. A plea is an opportunity for the defendant to both avoid a harsher consequence and comply with legal requirements to restore site to condition it was in before the violations occurred, in one “package deal.”
7. **Consider securing agency costs of investigation as part of your plea deal, as well as whether there are any victims that require restitution due to harm caused them.**

APPENDIX B

RESTRICTED PESTICIDES (by brand name and active ingredient)

“Restricted Pesticides” may only be used by certain people. See Food & Ag. 14015, above. “Restricted Materials” & “Restricted Pesticides” are the same in this guide. **Boldfaced chemicals** are most likely to be found at a cannabis grow site. This list is not fully-inclusive; see 3 Cal. Code Regs. § 6400 for the full authority.

See also Appendix C for a matrix that lists restricted pesticides commonly found on grow operations.

1. First, the U.S. E.P.A. has developed an extensive list of Restricted Pesticides. This is a list of pesticides for which use is restricted to certain permitted people.

Available at <http://1.usa.gov/22J6YZL> or at <https://www.epa.gov/sites/production/files/2016-02/documents/rupreport-sec3-update-jan2016.pdf>

2. Second, in California, pesticides with the following chemicals are also considered Restricted Pesticides. Since these are the chemical formulations, not the brand names, you must cross check the pesticide’s label with this list. It is like brand name medications versus generic names; these are the “generic names.”

Note: When an asterisk (*) appears after a chemical, there are exceptions that must be reviewed. See 3 Cal. Code Regs. § 6400(e).

Acrolein*	Difenacoum	Paraquat (Gramoxone)
Aldicarb (Temik)	Difethialone	Parathion-methyl
Aluminum phosphide (Phostoxin)	Disulfoton (Di-Syston)*	Phorate (Thimet)
4-Amino pyridine (Avitrol)	Endosulfan (Thiodan)*	Phosphine Gas
Azinphos-methyl (Guthion)	Ethoprop (Mocap)*	Potassium N-methyldithiocarbamate (metam-potassium)*
Brodifacoum	Fenamiphos (Nemacur)	Propanil (3,4-dichloropropionanilide)
Bromadiolone	Lindane*	Sodium cyanide
Calcium cyanide	Magnesium Phosphide	Sodium fluoroacetate (compound 1080)
Carbaryl (Sevin)*	Metam sodium*	Sodium tetrathiocarbonate (Enzone)
Carbofuran (Furadan)	Methamidophos (Monitor)	Strychnine*
Chloropicrin	Methidathion (Supracide)	Sulfotepp
Chlorpyrifos*	Methomyl (Lannate)*	Sulfuryl Fluoride
3-Chloro-p-toluidine hydrochloride (Starlicide)	Methyl bromide	Thiobencarb (Bolero)
Dazomet (Basamid)*	2-methyl-4-chlorophenoxyacetic acid (MCPA)*	Tribufos (DEF, Folex)
Dicamba (Banvel)*	Methyl iodide	Tributyltin, organotin*
2,4-dichlorophenoxyacetic acid (2,4-D)	Methyl isothiocyanate (MITC)*	Zinc phosphide*
2,4-dichlorophenoxybutyric acid (2,4-DB)*	Mevinphos (Phosdrin)	
2,4-dichlorophenoxypropionic acid (2,4-DP)*	Molinate (Ordram) — unregistered	
1,3-Dichloropropene (Telone II)	Oxydemeton-methyl (Metasystox-R)	

3. Third, pesticides with the following chemicals are deemed Restricted Pesticides per 3 Cal. Code Regs. §§ 6400(d) & 6800(a), which list chemicals that could pollute groundwater. Like the chemicals in No. 2 above, these are chemical formulations (“generic names”) and you must cross check with pesticide label.

Atrazine	Diuron (except for products	Prometon
Simazine	with less than 7% diurdon	Bentazon (Basagran)
Bromacil	that are applied to foliage)	Norflurazon

APPENDIX C

Matrix of Common Pesticides Found at Cannabis Cultivation Sites

Note: Prosecutors should not rely on this chart, and should independently verify each pesticide. These pesticides were found during Operation Trident.

"Registered Pesticides" means that the pesticide has been registered (i.e. approved for use) with the State of California. Pesticides are registered by brand name. Registration status found here: <http://www.cdpr.ca.gov/docs/label/prodnam.htm>.

"California Restricted Materials List" is the list of ingredients found in Appendix B.

WARNING LABEL MEANINGS: This is how much would kill average adult:



DANGER (POISON) – mere taste to teaspoon!

WARNING – Teaspoon to tablespoon

CAUTION –Ounce to Pint

Note: this is for oral ingestion. Many of these chemicals are harmful to the touch or if inhaled.

COMMON FOREIGN PESTICIDES - Pesticides with foreign labels are almost certainly unregistered and a violation of Food & Ag. 12995. Many such pesticides also contain restricted active ingredients, which may implicate Food & Ag. 14015. Below is a list of common foreign pesticides found on grow sites. None are registered, and all contain restricted materials.

Pesticide Name	Active ingredient
"Agro-Fum 57 "	Aluminum phosphide
"Bratton"	Methyl parathion
"Fosfuro de Zinc"	Zinc phosphide
"Furadan"	Carbofuran
"Metafos"	Methamidophos
"Ratone: Forsfuro de Zinc"	Zinc phosphide
"REICO"	Methamidophos
"Tamaron"	Methamidophos
"Tres Pasitos" ; EPA banned in 2010	Aldicarb (carbamate insecticide)

COMMON UNREGISTERED PESTICIDES, CONTAINING ACTIVE INGREDIENTS ON CALIFORNIA RESTRICTED MATERIALS LIST - The below list of pesticides may implicate both Food & Ag. 12995 [poss. unregistered pesticides] and Food & Ag. 14015 [poss. restricted use pesticides].

Pesticide Name	Active ingredient	Toxicity Signal
"Denkarin Grains"	Zinc phosphide	DANGER (POISON)
"Drex PH3"	Aluminum phosphide	DANGER (POISON)
"Gopha-rid"	Zinc phosphide	CAUTION
"M-parathion"	Methyl parathion	DANGER (POISON)
"Monitor"	Methamidophos	DANGER (POISON)
"Phosuín"	Zinc phosphide	DANGER (POISON)
"Pollux"	Zinc phosphide	DANGER (POISON)
"Ratol"	Zinc phosphide	DANGER (POISON)
"Ridall"	Zinc phosphide	CAUTION
"Rodenticide AG"	Zinc phosphide	CAUTION
"Surestop gopher killer"	Zinc phosphide	CAUTION
"Temik"	Aldicarb	DANGER (POISON)

COMMON REGISTERED PESTICIDES, CONTAINING ACTIVE INGREDIENTS ON CALIFORNIA

RESTRICTED MATERIALS LIST - The below list of pesticides may implicate Food & Ag. 14015 [poss. of restricted use pesticides].

Pesticide Name	Active ingredient	Toxicity Signal
"Sevin"	Carbaryl (insecticide granules)	CAUTION
"Lannate"	Methomyl	DANGER (POISON)
"Diazinon"	Diazinon	CAUTION
"Final", "Havoc", "Jaguar", "Talon" (and others)	Brodifacoum	CAUTION
"Contrac", "Resolv", "Just One Bite" and others	Bromadiolone	CAUTION
"Firststrike", "Generation", "Hombre" (and others)	Difethialone	CAUTION
"Di-Kill", "Prescription", "Victor" (and others)	Difenacoum	CAUTION

COMMON UNREGISTERED PESTICIDES, CONTAINING ACTIVE INGREDIENTS NOT ON

CALIFORNIA RESTRICTED MATERIALS LIST - Possession of the below pesticides in California implicates Food & Ag. 12995. Note: California has more stringent pesticides law than many other states. These pesticides may be registered in other states.

Pesticide Name	Active ingredient	Toxicity Signal
Cov-R-Tox	Warfarin	DANGER (POISON)
"Gopher Gone"	Chlorophacinone	CAUTION
"Orthenex"	Triforine; acephatel; Resmethrin)	WARNING
"RAX (69)"	Warfarin	WARNING or CAUTION
Rotenone-based pesticides	Rotenone	WARNING
"Tox-Hid (56)"	Warfarin	WARNING or CAUTION

APPENDIX C (Cont.)

COMMON REGISTERED PESTICIDES, CONTAINING ACTIVE INGREDIENTS NOT ON CALIFORNIA RESTRICTED MATERIALS LIST; BUT ILLEGAL WHEN APPLIED IN FIELD - The products listed below are only used legally in and around man-made structures (or underground) and their field use may cause illegal take of wildlife.

Pesticide Name	Active ingredient	Toxicity Signal (Warning Labels)
"Assault", "Black Flag", "Cykill", "Fastrac", "JT Eaton", "Just One Bite", "Real-Kill", "Rampage", "Tomcat" (and others)	Bromethalin	CAUTION
"Agrid3", "Terad3"	Cholecalciferol	CAUTION
"Bonide", "Kaput", "Rodex" (and others)	Warfarin	CAUTION
"D-Con", "Diphacinone", "Ditrac", "Gopher Getter", "Tomcat" "Ramik", "Kaput" (and others)	Diphacinone	CAUTION
"Gopher Getter", "Martin's", "Strychnine" (and others)	Strychnine	DANGER (POISON)
"Go Die", "Wilco", "ZP" (and others)	Zinc Phosphide	CAUTION
"Rozol", "Ortho Home Defense", "JT Eaton", "Chlorophacinone" (and others)	Chlorophacinone	CAUTION

COMMON REGISTERED PESTICIDES, CONTAINING ACTIVE INGREDIENTS NOT ON CALIFORNIA RESTRICTED MATERIALS LIST - The below list of pesticides generally do not implicate Food & Ag. 12995 and 14015.

Pesticide Name	Active ingredient	Toxicity Signal (Warning Labels)
"Avid"; legal for use on ornamental plants only	Abamectin	WARNING
"Bayer" (multi-insect or ant)	Imidacloprid	CAUTION
Bifenthrin-based pesticides	Bifenthrin	WARNING or CAUTION
"Floramite" prohibited in irrigation systems, only labeled for use on ornamentals	Bifenazate	CAUTION
"Havahart critter ridder"	Piperine, Oil of Black Pepper, Capsicum oleoresin	CAUTION
Malathion-based insecticides	Malathion	WARNING or CAUTION
"Ortho fungicide"	Chlorothalonil	WARNING
"Ortho fungicide" (concentrate)	Copper octanoate	CAUTION
"Ortho Max" (various)	Bifenthrin; dicamba, dimethylamine salt; triclopyr, trimethylamine salt; MCPA	WARNING or CAUTION
"Ortho Volck Oil Spray" (common insecticide for fruit trees)	Mineral oil	CAUTION
Rodex Blox-1	Warfarin	CAUTION
"Spectricide Triazicide" (various)	Gamma cyhalothrin; or Lambda-cyhalothrin	CAUTION

APPENDIX D

Legal Pest Management Practices for Cannabis Growers

The active ingredients of the below-listed pesticides have been approved for use on cannabis, per the California Department of Pesticide Regulation.

See <http://www.cdpr.ca.gov/docs/county/cacitrs/penfltrs/penf2015/2015atch/attach1502.pdf>

Table 1. Active ingredients that are exempt from residue tolerance requirements^a and either exempt from registration requirements^b or registered for a use broad enough to include use on marijuana.

ACTIVE INGREDIENT	PEST OR DISEASE
azadirachtin ^a	aphids, whiteflies, fungus gnats, leafminers, cutworms
<i>Bacillus subtilis</i> QST ^{a1}	root diseases, powdery mildew
<i>Bacillus thuringiensis</i> ^{a2} subsp. <i>aizawai</i> or <i>kurstaki</i>	moth larvae (e.g., cutworms, budworms, hemp borer)
<i>Bacillus thuringiensis</i> ^{a2} subsp. <i>israelensis</i>	fly larvae (e.g., fungus gnats)
<i>Beauveria bassiana</i> ^{a3}	whiteflies, aphids, thrips
cinnamon oil ^b	whiteflies
<i>Gliocladium virens</i> ^{a1}	root diseases
horticultural oils ^a (petroleum oil)	mites, aphids, whiteflies, thrips; powdery mildew
insecticidal soaps ^a (potassium salts of fatty acids)	aphids, whiteflies, cutworms, budworms
iron phosphate ^a ; sodium ferric EDTA ^a	slugs and snails
neem oil ^a	mites; powdery mildew
potassium bicarbonate ^a ; sodium bicarbonate ^a	powdery mildew
predatory nematodes ^a	fungus gnats
rosemary + peppermint essential oils ^b	whiteflies
sulfur ^a	mites, hemp flea beetles
<i>Trichoderma harzianum</i> ^{a1}	root diseases

^a 40 CFR (Code of Federal Regulations)

^b FIFRA §25(b) and 3 CCR §6147 [FIFRA = the Federal Insecticide, Fungicide, and Rodenticide Act; CCR = California Code of Regulations]

¹ Biofungicides

² Bacterial-based insect pathogen

³ Fungal-based insect pathogen

APPENDIX E

Statutory Hazardous Wastes – Listed by Common Name

Boldfaced chemicals are most likely to be found at a cannabis cultivation site.

22 Cal. Code Regs. § 66261.126, Appendix X(b) (2016)

§ 66261.126. Management of Special Wastes

(b) This subdivision sets forth a list of common names of wastes which are presumed to be hazardous wastes unless it is determined that the waste is not a hazardous waste pursuant to the procedures set forth in section 66262.11. The hazardous characteristics which serve as a basis for listing the common names of wastes are indicated in the list as follows:

(X) toxic, (C) corrosive, (I) ignitable and (R) reactive.

Acetylene sludge (C)	Caustic wastewater (C)	Obsolete explosives (R)	Spent (or waste) cyanide solutions (X,C)
Acid and water (C)	Cleaning solvents (I)	Oil and water (X)	Spent mixed acid (C)
Acid sludge (C)	Corrosion inhibitor (X,C)	Oil Ash (X,C)	Spent plating solution (X,C)
AFU Flocc (X)	Data processing fluid (I)	Paint (or varnish) remover/stripper (I)	Spent sulfuric acid (C)
Alkaline caustic liquids (C)	Drilling fluids (X,C)	Paint thinner (X,I)	Stripping solution (X,I)
Alkaline cleaner (C)	Drilling mud (X)	Paint waste (or slops) (X,I)	Sulfonation oil (I)
Alkaline corrosive battery fluid (C)	Dyes (X)	Pickling liquor (C)	Tank bottom sediment (X)
Alkaline corrosive liquids (C)	Etching acid liquid or solvent (C,I)	Pigments (X)	Tanning sludges (X)
Asbestos waste (X)	Fly ash (X,C)	Plating waste (X,C)	Toxic chemical toilet wastes (X)
Ashes (X,C)	Fuel waste (X,I)	Printing Ink (X)	Unrinsed pesticide containers (X)
Bag house wastes (X)	Insecticides (X)	Retrograde explosives (R)	Unwanted or waste pesticides -- an unusable portion of active ingredient or undiluted formulation (X)
Battery acid (C)	Laboratory waste (X,C,R,I)	Sludge acid (C)	Waste epoxides (X,I)
Beryllium waste (X)	Lime and sulfur sludge (C)	Soda ash (C)	Waste (or slop) oil (X)
Bilge water (X)	Lime and water (C)	Solvents (I)	Weed Killer (X)
Boiler cleaning waste (X,C)	Lime sludge (C)	Spent acid (C)	
Bunker Oil (X,I)	Lime wastewater (C)	Spent caustic (C)	
Catalyst (X,I,C)	Liquid cement (I)		
Caustic sludge (C)	Mine tailings (X,R)		

APPENDIX F

Deer Zone Map, Game Birds, Game Mammals

2015 Deer Zones and Additional Hunts



Fish and Game Code § 3500 - Game Birds

(a) Resident **game** birds are as follows:

(1) Doves of the genus *Streptopelia*, including, but not limited to, spotted doves, ringed turtledoves, and Eurasian collared-doves.

(2) California quail and varieties thereof.

(3) Gambel's or desert quail.

(4) Mountain quail and varieties thereof.

(5) Sooty or blue grouse and varieties thereof.

(6) Ruffed grouse.

(7) Sage hens or sage grouse.

(8) Hungarian partridges.

(9) Red-legged partridges including the chukar and other varieties.

(10) Ring-necked pheasants and varieties thereof.

(11) Wild turkeys of the order Galliformes.

(b) Migratory **game** birds are as follows:

(1) Ducks and geese.

(2) Coots and gallinules.

(3) Jacksnipe.

(4) Western mourning doves.

(5) White-winged doves.

(6) Band-tailed pigeons.

Fish and Game Code § 3950 - Game Mammals

(a) **Game** mammals are: deer, elk, prong-horned antelope, wild pigs, including feral pigs and European wild boars, black and brown or cinnamon bears, mountain lions, jackrabbits and varying hares, cottontails, brush rabbits, pigmy rabbits, and tree squirrels.

(b) Nelson bighorn sheep are **game** mammals only for the purposes of sport hunting described in subdivision (b) of Section 4902.