

MONTEREY COUNTY



County Administrative Office

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February 16, 2023

To: Board of Supervisors Cannabis Committee
 Fr: Joann Iwamoto
 cc: Nicholas E. Chiulos
 Re: Cannabis Program performance indicators, SMART goals, legislative updates, and active grants.

CANNABIS PROGRAM BUDGET, REVENUE, AND EXPENSES

A. Fiscal Year-Over-Year Cannabis Tax Collected

This table has been updated through January 2023.

FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23*
\$3,143,037	\$14,533,062	\$15,768,705	\$16,878,601	\$19,827,542	\$7,432,269	\$36,125

* In October the County issued 13 refunds totaling \$457,890 and ranging from \$5,200 to \$144,400.

B. Balance of Allocation for Enforcement Against Unlicensed Cannabis Activity

This is an allocation within the Sheriff’s Office budget intended for enforcement against unlicensed cannabis activity. Program staff receives updates and monitors this allocation, which has been updated through December.

Item	Allocation	Remaining Balance
Sheriff’s Office – Unlicensed Enforcement Overtime	\$204,000	\$174,536

C. Balance of Cannabis Program Contingency

This allocation, originally approved in FY 19-20, was intended for additional Sheriff’s Office overtime and aerial surveillance. The Board later approved a broader usage, including enforcement tools and contracting with outside consultants to expedite permit processing.

Type	Allocation	Remaining Balance
Cannabis Program Contingency	\$501,680	\$487,324

D. Grant Activity and Other

Local Jurisdiction Assistance Grant (LJAG)

The Department of Cannabis Control has approved the amendments to the LJAG, which include substantial increases to passthrough funding. Staff will further inform operators of these changes through a Cannabis Memorandum and discuss at the next Industry meeting scheduled for February 27, 2023. Staff have approved 9 passthrough funding applications and processed \$89k in reimbursements.

Governor’s Office of Business and Economic Development (GO-Biz) Cannabis Equity Grants Program for Local Jurisdictions (CEG)

A kickoff meeting was held on February 15, 2023, and staff will provide further updates at the next Board Cannabis Committee meeting.

CANNABIS PERMIT INFORMATION

A. Cannabis Land Use Permits

As a reminder, staff have removed applications that have not been formally submitted from the count. Currently there are 77 applications. 52 have been approved and 25 are pending approval. The table below shows the number of Cannabis Land Use Permits approved by fiscal year. There have been 5 additional approvals since the previous Cannabis Committee meeting.

Fiscal Year	# Approved
FY 17-18	1
FY 18-19	3
FY 19-20	8
FY 20-21	8
FY 21-22	22
FY 22-23	10
Total	52

Here is a detailed breakdown of the cannabis land use permits and their status.

PLN Status	County
Incomplete	14
Re-Submitted	4
Denied	1
Complete	4
Set for Hearing	1
Pending Approved	1
Condition Compliance	38
Cleared	14
Total	77

There are 3 PLNs which will need to be in a cleared status by the end of March 2023, and another 5 by the end of April 2023. This status will allow the Program to provide local authorization for the underlying operation to convert from provisional to annual cultivation licenses. If these milestones are not achieved, the operators must scale back their cultivation canopy as each license expires. This is because they are not eligible for renewal due to having canopy equivalent to Type 5 cultivation licenses.

B. Cannabis Business Permits

Currently there are 87 applications. 76 applicants are currently operating and 11 are inactive. The table below shows the number of initial Cannabis Business Permits issued by fiscal year. There have been 4 additional issuances since the previous Cannabis Committee meeting.

Fiscal Year	# Issued
FY 17-18	3
FY 18-19	5
FY 19-20	2
FY 20-21	5
FY 22-23	7
Total	22

C. Cessation of Business

A Cessation of Business form is submitted to the Program and Treasurer-Tax Collector’s Office (TTC) when a business shuts down. Often, the business does not submit the Cessation of Business form and the Program conducts a final inspection and provides the “Inspection Fact Sheet” to the TTC. The table below reflects all businesses that have closed operations regardless of if they submitted the required Cessation of Business form.

Calendar Year	#
CY 2019	2
CY 2020	9
CY 2021	9
CY 2022	18
CY 2023	18
Total	56

Reason for Closure	#
Acquisition	5
Enforcement action	3
Insolvency	43
Operation never began	5
Total	56

C. Employee Count

Staff did not begin collating employee roster information until July 2021, however these figures should be considered approximations due to the evolving nature of the cannabis workforce. Employees have declined by approximately 1,000 since July 2021, which is when the market downturn first began to be reported by local operators.

Operators previously expressed interest in converting this datapoint from a count to a full time equivalent, as this would indicate that hours have been reduced in addition to counts. During the prior Industry meeting, however, operators did not believe they had the capacity to provide this additional

information. As such, the Program will continue to capture and report employee counts.

Reporting Period	#
July 2021	2,400
August 2022	2,000
October 2022	1,400

CANNABIS MARKET INFORMATION

A. FY 22-23 Cannabis Cultivation Figures

Cultivation Type	Square Footage	Acreage	Cultivation Tax Revenue
Mixed Light	2,335,813	54	\$4,158,506
Indoor	77,054	2	\$203,259
Nursery	1,211,421	28	\$1,047,434
Outdoor			
	3,624,288	83	\$5,409,199

Below is a summary of approved canopy modifications by fiscal year.

Fiscal Year	Decrease	Increase
FY 19-20	7	11
FY 20-21	2	22
FY 21-22	14	15
FY 22-23	15	5

B. Monthly Wholesale Flower Pricing by Cultivation Type (\$/lb.)

Month	2022											2023
	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan
All Indoor	\$1,177	\$966	\$1,093	\$1,207	\$946	\$902	\$810	\$915	\$1,007	\$739	\$922	\$1,124
# of Licensees	10	8	7	7	8	7	4	7	10	6	8	2
Volume (Lbs.)	1,370	612	613	472	794	843	743	888	2,283	709	1,149	165
All Mixed Light	\$471	\$410	\$439	\$430	\$393	\$365	\$344	\$312	\$278	\$398	\$266	\$272
# of Licensees	19	18	15	22	17	16	16	13	18	15	15	9
Volume (Lbs.)	6,781	12,536	7,792	15,934	19,349	18,393	16,612	19,860	43,839	31,391	34,317	30,957

ENFORCEMENT AGAINST UNLICENSED CANNABIS ACTIVITY

The County of Monterey Marijuana Eradication Team provides the Program with information to update the Cannabis Committee on outcomes of search warrant and abatement activities. There are no updates from the prior Committee meeting.

Type	CY 2019	CY 2020	CY 2021	CY 2022
Cannabis Plants	31,938	32,888	18,602	97,703
Cannabis Processed (lbs.)	3,981	5,476	1,716	38,430
Gross Weight Abated (tons)	18.0	19.2	10.2	68.1
Firearms	13	105	97	18
Currency	\$100,815	\$28,146	\$104,700	\$5,500
Explosive Material (lbs)				25
Meth (lbs)				1
Clandestine Lab	0	2	5	
Wholesale Market Value	\$35,919,000	\$38,364,000	\$20,303,000	\$68,066,500

SMART GOALS AND PERFORMANCE MEASURES

Cannabis Program

SMART Goal #1: Issuing a Cannabis Business Permit (CBP)

The Cannabis Program will issue a CBP within 3 business days of the Operator submitting a complete CBP Initial Application and satisfying departmental requirements, in addition to the Property Owner receiving a fully cleared Land Use Entitlement.

Service level: 100%

Fiscal Year	Q4 of FY 21-22	FY 22-23, Q1	FY 22-23, Q2
Service Level	N/A	100%	100%

SMART Goal #2: Renewing a CBP

The Cannabis Program will renew CBPs within 3 business days of the Operator submitting a complete CBP Renewal Application and satisfying departmental requirements.

Service level: 100%

Fiscal Year	Q4 of FY 21-22	FY 22-23, Q1	FY 22-23, Q2
Service Level	100%	100%	100%

SMART Goal #3: Providing local authorization using the Provisional Cannabis Business Permit (PCBP)

No later than August 1, 2022, up to 100 Operators who have not obtained a CBP will be issued a Provisional CBP under Good Standing criteria expiring one year from its issuance date.

Service level: 100%

Fiscal Year	Q4 of FY 21-22	FY 22-23, Q1	FY 22-23, Q2
Service Level	N/A	N/A	100%

SMART Goal #4: Providing renewal of the Provisional Cannabis Business Permit (PCBP)

The Cannabis Management Team will review outstanding requirements related to the Land Use Entitlement and the Cannabis Business Permit. Only those that have completed critical requirements and/or made significant progress to complete will be issued a one-time renewal of the PCBP expiring January 1, 2024 for Class A Provisional Cannabis Permittees and January 1, 2026 for Class B Provisional Cannabis Permittees.

Service level: TBD

Fiscal Year	Q4 of FY 21-22	FY 22-23, Q1	FY 22-23, Q2
Service Level	N/A	N/A	N/A*

*Based on the initial term, PCBPs will not be renewed until FY 23-24 reporting periods.

Housing and Community Development

Key Performance Measure #1: Building permit plan check

Housing and Community Development will complete the review of plans submitted with building permits within 6-8 weeks.

Service level: 100%

Fiscal Year	FY 21-22	FY 22-23, Q1	FY 22-23, Q2
Service Level	96%	72%	72%

Key Performance Measure #2: Environmental Services permit plan review

Environmental Services permit plan review completed within 6-to-8-week timelines.

Service level: 100%

Fiscal Year	FY 21-22	FY 22-23, Q1	FY 22-23, Q2
Service Level	26%	34%	48%

Key Performance Measure #3: Engineering Services permit plan review

Engineering Services permit plan review completed within 6-to-8-week timelines.

Service level: 100%

Fiscal Year	FY 21-22	FY 22-23, Q1	FY 22-23, Q2
Service Level	31%	67%	58%

Key Performance Measure #4 Construction permit inspections

Housing and Community Development will complete construction permit inspections within one working day of the request.

Service level: 100%

Fiscal Year	FY 21-22	FY 22-23, Q1	FY 22-23, Q2
Service Level	100%	99%	98%

ADDITIONAL INFORMATION

Legislative

In FY 21-22, the Board of Supervisors sent a letter to respective legislators in support of SB1326. This bill was signed by the Governor on September 18, 2022 and will allow the cross jurisdictional import and export to other states, of cannabis and cannabis products by authorizing the Governor to enter into an agreement to provide lawful interstate commerce. This will allow the transportation and delivery of cannabis across state lines by cannabis producers and wholesalers.

On January 27, 2023, the Department of Cannabis Control (DCC) requested (link [here](#)) that the Attorney General issue a written opinion addressing this question—that is, whether state-law authorization for medicinal or adult-use commercial cannabis activity, or both, between out-of-state licensees and California licensees, under an agreement pursuant to SB 1326, will result in significant legal risk to the

State of California under the federal Controlled Substances Act.

The DCC provided three reasons why they think it will not:

1. The Controlled Substances Act could not constitutionally prohibit California from legalizing and regulating commercial cannabis activity with out-of-state licensees.
2. The Controlled Substances Act does not, in fact, criminalize California's legalization and regulation of commercial cannabis activity with out-of-state licensees.
3. Federal law further insulates California from significant risk as to agreements concerning medicinal cannabis.

At the time of writing, staff is not aware of a response to the DCC request.

In early February 2023, an article on the topic of interstate cannabis commerce was published in MJBizDaily (link [here](#)). The author outlined that the Governor may enter interstate cannabis commerce agreements via SB1326 if one of the following criteria is met:

- Federal legalization, which is not imminent.
- A U.S. law is enacted that bars the federal government from spending money to prevent interstate marijuana shipments.
- The U. S. Department of Justice issues an opinion or memo allowing interstate marijuana commerce.
- The U.S. attorney general issues a written opinion that state law pursuant to medical or adult-use commercial marijuana activity will not result in "significant legal risk to the State of California under the federal Controlled Substances Act, based on review of applicable law, including federal judicial decisions and administrative actions.

The writer and those interviewed speculated that it will take a significant amount of time to implement and may be accompanied by drawbacks, such as:

- Differences in operational standards and regulations between states, which could contribute to competitive disadvantages.
- Several other states have experienced oversaturation and a decline in pricing, which would be further exacerbated by increased supply.
- States may be reluctant to give up the opportunity to generate tax revenue and contribute to economic growth within their own borders.

Program staff concurs with these concerns and will continue to monitor and report on developments to interstate cannabis commerce.

The Program is also tracking other legislative items that would contribute to the success of the industry and the diversity of its stakeholders. Below is a table of bills that staff are monitoring through the State legislature:

Bill	Subject	Status
SB-1293	This bill would grant a credit to a cannabis equity applicant or licensee in an amount equal to the amount of business expenses the equity applicant or licensee could not deduct or claim as a credit for that taxable year under federal law because the amount was disallowed due to federal prohibitions on cannabis.	Held in Committee on Appropriations and under submission.
SB-1281	This bill would discontinue the imposition of the cultivation tax, would reduce the excise tax to 5%, and would remove the statutory mark-up rate of 80% that is currently applied to transactions between unrelated business entities.	Referred to Revenue and Taxation and Business, Professions, & Consumer Protection Committees.