

NORTH COAST REGIONAL WATER BOARD

Cannabis & Enforcement Division

Programs:

*Cannabis Cultivation Waste Discharge Regulation
Enforcement*

Fiscal Year (FY) 2019-2020 WORK PLAN

Division Supervisor: Kason Grady



Contents

Fiscal Year (FY) 2019-2020 WORK PLAN	1
1.0 BACKGROUND.....	4
1.1 Cannabis Cultivation Waste Discharge Regulatory Program	4
1.2 Enforcement.....	5
2.0 DIVISION RESOURCES	7
2.1 Staffing.....	7
Table 1 – Division Staff, Includes Management and Support Staff.....	7
3.0 CANNABIS CULTIVATION REGULATORY PROGRAM	8
3.1 Core Activities and Projects by Priority	8
Table 2 – FY 19/20 Cannabis Program Core Activities and Projects by Priority	8
3.2 Core Activity and Project Descriptions.....	9
Priority 1.a – Order Implementation.....	10
Priority 1.b – Interagency Coordination	11
Priority 1.c – Education and Outreach.....	11
Priority 1.d – Enforcement.....	11
Priority 1.e – Hiring	12
Priority 1.f – Revise and Renew the Regional Cannabis Order	13
Priority 2.a – Computer Vision Project.....	13
Priority 2.b – Support Implementation of the CIPS Contract	14
Priority 3.a – Conducting Additional Compliance Inspections	14
Priority 3.b – Review and Comment on Routine CEQA documents	14
Priority 3.c – Review and Comment on Cannabis Program Site Management Plans	14
3.3 Performance Targets	15
4.0 ENFORCEMENT.....	16
4.1 Core Activities and Projects by Priority	16
Table 3 – FY 19/20 Program Core Activities and Projects by Priority.....	16
4.2 Core Activity and Project Descriptions.....	16
Priority 1.a - Discretionary Penalty Case Development, Prioritization and Penalty Assessment.....	16
Priority 1.b – Mandatory Minimum Penalty Assessment.....	17
Priority 1.c – Conduct Enforcement Inspections and Investigations	18
Priority 1.d – Development and Management of Complex, Long-Term Enforcement Cases	18

Cannabis & Enforcement Division
Work Plan for FY 2019-2020

Priority 1.e – Develop and post on our website a list of potential SEPs for use in settlement of enforcement actions 18

Priority 1.f – Update Regional Enforcement Priorities 19

Priority 1.g – Hiring 19

Priority 2.a – Development of Business Rules for Standardization of Enforcement Processes..... 19

Priority 2.b – Development of Tracking and Reporting Tools for Enforcement Cases 20

Priority 3.a – Additional Discretionary Penalty Case Development, Prioritization, and Penalty Assessment..... 20

Priority 3.b – Conduct Additional Enforcement Inspections and Investigations..... 20

Priority 3.c – Additional Case Management of Complex, Long-Term Enforcement Cases 20

4.3 Performance Targets 21

Cover Page Photo Credits:

Image source: Division of Water Rights, State Water Resources Control Board
March 13, 2019, Presentation

1.0 BACKGROUND

The Cannabis and Enforcement Division includes three units, two Cannabis Regulatory Units that implement the Cannabis Cultivation Waste Discharge Regulatory Program and one Enforcement Unit that implements the Enforcement Program and provides specialized enforcement assistance to all programs throughout the office.

Dedicated enforcement staff ensure that water quality violations are prioritized for direct actions including Cleanup and Abatement Orders and monetary penalties that are firm, fair, and consistent with the Water Boards Enforcement Policy.

1.1 Cannabis Cultivation Waste Discharge Regulatory Program

Cannabis cultivation in California has increased dramatically in recent years and is often located in sensitive environmental areas where the activities create significant impacts to water quality. Waste discharges from cultivation sites include sediment, irrigation runoff, fertilizers, pesticides/herbicides, petroleum, agricultural chemicals, cultivation-related organic waste, refuse, and human waste. Construction of access roads has resulted in significant erosion and sediment discharges to waterbodies.

The North Coast Cannabis Cultivation Waste Discharge Regulatory Program received initial funding in FY 2014-15, developed the first water quality order regulating cannabis cultivation in the state in 2015 (Order No. R1-2015-0023, Regional Cannabis Order). The State Water Resources Control Board (State Water Board), in consultation with California Department of Fish and Wildlife(CDFW), California Department of Food and Agriculture (CDFA), and Regional Water Quality Control Boards (Regional Water Boards), developed the Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation (the Policy) in accordance with Water Code section 13149 to protect water quality and instream flows. On October 17, 2017, the Policy was adopted by the State Water Board along with Order WQ-2017-0023-DWQ General Waste Discharge Requirements and Waiver of Waste Discharger Requirements for Discharges of Waste Associated with Cannabis Cultivation (the Statewide Cannabis General Order). Subsequent updates to the Policy (Resolution No. 2019-0007) and amendments to the Statewide Cannabis General Order (WQ-2019-0007-DWQ) were recently adopted by the State Water Board and became effective on April 16, 2019. The geographic scope of the Policy and Statewide Cannabis General Order encompasses the entire state with priority regions established for areas with streams bearing anadromous habitat.

The Policy required that all existing cannabis cultivators enrolled under the Regional Cannabis Order obtain coverage under the Statewide Cannabis General Order by July 1, 2019, and the State Water Resources Control Board intended that the Regional Water Board terminate enrollment coverage by that date. To fulfill that expectation, Regional Water Board staff informed enrollees on multiple occasions using multiple media of their obligations and, ultimately, issued a notice directing all remaining enrollees to transfer their enrollment and indicating that failure to do so by July 1, 2019, would result in the loss of regulatory coverage.

The Policy contains guidelines for evaluating whether a cannabis cultivation site may affect instream flows and water quality needed for the protection of aquatic habitat. It prescribes protective criteria that limit the season of diversion, establish minimum flows at specific flow gages, and establish requirements related to water diversion and waste discharge. As an alternative to the criteria specified in the Policy, the Policy allows site specific studies to be conducted to evaluate whether different protective criteria could be applied. The Policy provides for a watershed-based approach to evaluate the cumulative effects of multiple diversions on instream flows within a watershed as an alternative to evaluating water diversion projects on an individual basis. Enforcement requirements contained in the Policy include a framework for compliance assurance through existing water rights and water quality programs, and descriptions of available enforcement actions and procedures.

Implementation of both the Regional Cannabis Order and the Statewide Cannabis General Order is the Cannabis Cultivation Waste Discharge Regulatory Program staff's primary duty.

Other Program Activities

- Interagency coordination with the State Water Board, other Regional Boards, CDFW, CDFA, and local agencies
- Education and outreach: to the public, media, and industry and watershed groups
- Participate on interagency enforcement inspections with the California Department of Fish and Wildlife (CDFW), local regulatory agencies and local law enforcement
- Enforcement actions
- Hiring
- Developing technology to automatically identify Cannabis cultivation sites using satellite imagery
- Collaborating with the State Water Board on implementation of a contract to enhance and upgrade the Cannabis identification and prioritization system (CIPS) and other program management databases (e.g. CIWQS, ECM, GeoTracker, CROPS)

1.2 Enforcement

The Enforcement Program is a strategic use of resources to address water quality violations and associated environmental crimes throughout the North Coast Region. The Regional Water Board's emphasis is on ensuring water quality protection through enforcing the Clean Water Act, the Porter-Cologne Water Quality Control Act (Water Code), and the Water Quality Control Plan for the North Coast Region (Basin Plan). Enforcement is conducted through individual case development for violations identified through routine inspections and reporting associated with permitted program sites and through warrant and consent inspections of sites that are not operating under requirements designed to address waste discharges associated with activities conducted on the sites. Enforcement also is addressed through collaboration with other local, state and federal agencies; one of the Cannabis Programs primary responsibilities is to, in collaboration with Department of Fish and Wildlife's (DFW) Watershed Enforcement Team (WET), pursue violations associated with cannabis cultivation activities. The Enforcement Program also supports

Cannabis & Enforcement Division
Work Plan for FY 2019-2020

and encourages development of Environmental Crimes Task Forces with local counties in the region, garnering a broad spectrum of public and local agency support and actively working to increase effectiveness through strategically working with a diverse group of regulatory bodies to reduce environmental crimes.

The Clean Water Act, Water Code and the Basin Plan prohibit the discharge of materials that adversely affect the beneficial uses of the waters of the State. The Regional Water Board has the authority to take enforcement action, ranging from a Notice of Violation to issuing administrative civil liabilities (monetary penalties) against persons who violate the Clean Water Act, Water Code, the Basin Plan regulatory requirements.

The overall objective is to protect, restore and preserve the quality of waters within the North Coast Region by applying enforcement strategies in a fair and equitable manner to address violations. The following types of violations are considered priorities in the North Coast: those affecting critical habitats, areas where restoration funds have been invested, federal Clean Water Act section 303(d) listed waterbodies, impacts to public drinking water, and the cumulative effects of violations.

Enforcement efforts are focused on activities associated with unregulated activities, cannabis sites, agriculture, storm water runoff, and regulated sites that are out of compliance with waste discharge requirements.

2.0 DIVISION RESOURCES

2.1 Staffing

The Enforcement Unit is the one unit dedicated to implement the regional Enforcement Program. Two units implement the Cannabis Cultivation Waste Discharge Regulatory Program: (1) Cannabis Regulatory Unit 1, and (2) Cannabis Regulatory Unit 2. There is one dedicated Analyst for the Cannabis Program in the Administration Unit. Consistent with all divisions in the office, the Division also receives support from the other five (5) staff in the Administration Unit.

On May 6, 2019, the State Water Resources Control Board Deputy Director of the Division of Administrative Services froze all hiring within the statewide Cannabis Program in response to insufficient funding for the positions allocated to the program. Enrollments in the statewide Cannabis Program have been significantly below State Water Board projections and the revenues from the existing fee schedule have not been sufficient to meet the funding needs for the program. Currently, the State Water Board is considering options to address the funding shortfall including alternative funding sources and potential fee increases. Still, it is unknown when or if this hiring freeze will be lifted.

The Cannabis Program hiring freeze currently impacts approximately 16% of the program positions and 20% of the program's field staff positions. This reduction in staffing will result in an approximate equivalent reduction of Cannabis Program project/activity workload. Tasks that staff do not anticipate being able to accomplish as a result of the hiring freeze are identified as Priority 3 in Table 2, below.

Staff that utilize Enforcement and Cannabis Program resources are provided in the following table:

Table 1 – Division Staff, Includes Management and Support Staff

<i>Position</i>	<i>Name</i>	<i>Division or Unit</i>	<i>PYs</i>
Division Chief	Kason Grady	Cannabis & Enforcement	1.0
Specialist	Vacant and subject to hiring freeze	Enforcement	1.0
Senior	David Kuszmar	Cannabis Regulatory 1	1.0
Technical	5 Staff; 1.6 PY subject to hiring freeze	Cannabis Regulatory 1	4.6
Senior	Mona Dougherty	Cannabis Regulatory 2	1.0
Technical	4 Staff	Cannabis Regulatory 2	4.0
Senior	Diana Henriouille	Enforcement	1.0
Technical	5 Staff	Enforcement	5.0
Administrative Support Staff	6 Staff	Administration	1.0 dedicated + variable
		Total:	19.6*

*2.6 PY of the 19.6 total PY allocation are currently vacant and subject to a hiring freeze. The actual staff resources available for the Division are currently 17 PYs.

3.0 CANNABIS CULTIVATION REGULATORY PROGRAM

3.1 Core Activities and Projects by Priority

The primary responsibilities of program staff are categorized based on priority listed in Table 2. Most activities are described in more detail in Section 3.2.

Table 2 – FY 19/20 Cannabis Program Core Activities and Projects by Priority

Priority Level	Activity/Project	Category	Target Date
1	a. Statewide Cannabis General Order Implementation: i. Process requests for enrollment and termination under the Statewide Cannabis General Order ii. Continue to issue approvals for projects to proceed within waters of the state to fix failing stream crossings, filled wetlands, and impacted creeks iii. Review technical documents for compliance and communicate with enrollees and their representatives iv. Inspect enrolled sites, assess compliance, issue inspection reports and enforcement actions when appropriate	Core	Ongoing
1	v. Water Quality Certification Streamlining Project – Develop procedures and process to effectively and efficiently issue approvals for projects within waters of the state under the Statewide Cannabis General Order. Improve application, efficiency of processing, and timely issuance. Train staff to implement the procedures	Special	September 2019
1	vi. Plan Review and Approval Streamlining Project – Develop procedures, process and guidance for staff to review, comment, and approval of plans submitted to comply with the Statewide Cannabis General Order	Special	September 2019
1	vii. Review, comment, and approve all submissions of Erosion and Sediment Control Plans (ESCPs) and Disturbed Area Stabilization Plans (DASPs).	Core	Ongoing
1	viii. Enrollment Transition/Termination Project – Transition existing enrollees under R1-2015-0023 to the Statewide General Order or process their termination from R1-2015-0023	Special	December 2019
1	b. Interagency Coordination: i. Meet with local and state agencies to collaborate ensure consistent regulation of enrolled sites, provide comments on projects pursuant to the CEQA, and prioritize enrollments and enforcement actions	Core	Ongoing

Cannabis & Enforcement Division
 Work Plan for FY 2019-2020

Priority Level	Activity/Project	Category	Target Date
1	ii. Coordinate with tribal governments throughout the region to provide direct outreach regarding proposed policy changes and to coordinate on applications for cannabis cultivation within 600 feet of tribal lands.	Core	Ongoing
1	iii. Develop a Revised Interagency Joint Strategic Plan – Regional Water Board staff will assist State Water Board staff in the revisions to the 2014 Joint Strategic Plan between the Water boards and CDFW, expanded to include CDFA	Special	September 2020
1	c. Education and Outreach	Core	Ongoing
1	d. Enforcement	Core	Ongoing
1	e. Hiring: If the hiring freeze is lifted, fill three recently vacated positions, including one Water Resource Control Engineer and one Environmental Scientist in the Southern Cannabis Regulatory Unit and a Senior Environmental Scientist (Specialist)	Core	September 2019
1	f. Revise and Renew the Regional Cannabis Order	Special	June 2020
2	a. Computer Vision Project: Develop technology to automatically identify cannabis cultivation sites using satellite imagery	Special	Ongoing
2	b. Collaborate with the State Water Board’s Division of Water Quality on the implementation of contract to improve CIPS	Special	March 2020
3	a. Conducting Additional Compliance Inspections	Core	Ongoing
3	b. Review and comment on routine CEQA documents	Core	Ongoing
3	c. Review and comment on Cannabis Program Site Management Plans	Core	Ongoing

3.2 Core Activity and Project Descriptions

Activities and projects are listed below and identified by the priority (1, 2, 3, etc.) and the letter (a, b, c, etc.) listed in Table 2 above. In this Work Plan, Priority 3 represents work that staff are unable to accomplish due to limited staff resources. In particular, the statewide Cannabis Program hiring freeze results in a 2.6 PY reduction in the available staff resources.

Priority 1.a – Order Implementation

Summary: Order implementation includes processing requests for enrollment under the Statewide Cannabis General Order including associated applications for water quality certification and other waste discharge programs associated with cannabis; processing requests for termination from the Regional and Statewide Cannabis General Orders; reviewing technical documents for compliance; communicating with enrollees and their representatives; conducting compliance inspections; preparing inspection reports and enforcement actions when appropriate; and associated tasks¹.

Key Issues to Resolve:

- a. Based on direction from the State Water Board, staff sent letters requiring all existing cannabis cultivators enrolled under the Regional Cannabis Order either to transition to the Statewide Cannabis General Order by July 1, 2019, or their enrollment will automatically terminate. There will be significant workload to work with enrollees through the transition and termination process.
- b. There is currently a backlog of unreviewed plans submitted in accordance with Statewide Cannabis General Order requirements. These plans are complex and management has identified the need to standardize plan review expectations/procedures and train staff to ensure consistent and timely reviews.
- c. Staff received over 30 applications for Water Quality Certification at the end of FY18-19, which will require a significant amount of staff time for review.

PY Allocation for FY 19/20: 9.1

Milestones	Target Date
Finalize procedures to efficiently process applications for water quality certification and train staff.	September 2019
Finalize procedures to efficiently review and approve Erosion and Sediment Control Plans, Disturbed Area Stabilization Plans, and Nitrogen Management Plans and train staff.	September 2019
Process all applications to transfer enrollments from Order No. R1-2015-0023 to the Statewide Cannabis General Order.	December 2019
Review, comment, and approve backlogged submissions of Erosion and Sediment Control Plans, Disturbed Area Stabilization Plans, and Nitrogen Management Plans.	December 2019

¹ State Water Board Division of Water Quality staff are aiding the North Coast Region in processing applications to transition from the Regional Cannabis General Order to the Statewide Cannabis General Order. State Water Board staff resources are not accounted for in this PY allocation.

Process all requests to terminate from R1-2015-0023	December 2019
Conduct inspections of enrolled sites to assess compliance	Ongoing

Priority 1.b – Interagency Coordination

Summary: Staff works closely with the State Water Board and other regional boards to coordinate review and oversight of cannabis cultivation, comment on proposed legislation, and communicate regularly on issues with the potential to affect the program.

Key Issues to Resolve: Regulation of cultivation sites in counties with bans, caps on licenses, and other restrictions that could affect enrollment; commenting on local permits and development projects; coordination on the planning, scheduling, and conducting of enrollment inspections and enrollment enforcement efforts; assessment of water quality impacts of onstream pond development; and coordination with local agencies regarding other activities associated with cannabis cultivation including wastewater discharges to onsite wastewater treatment systems and to land.

PY Allocation for FY 19/20: 0.5

Milestones	Target Date
Provide comments to the County of Trinity on their draft Commercial Cannabis Program Environmental Impact Report	September 2019
Coordinate with the County of Sonoma on anticipated updates to their Cannabis Ordinance and Hemp Moratorium	December 2019
Collaborate with State Water Board staff to revise the 2014 Joint Strategic Plan with CDFW, expanded to include CDFA	September 2020

Priority 1.c – Education and Outreach

Summary: Staff works with the public, local watershed groups, cannabis industry representatives, and local consulting firms to address concerns regarding water quality issues associated with cannabis cultivation. Staff also communicates with the regulated industry by speaking at conferences, town halls, and industry and community group meetings.

Key Issues to Resolve: Educate the general public and regulated community regarding regulatory requirements, the enrollment, transition and termination processes, and best practices for compliance.

PY Allocation for FY 19/20: 0.1

Priority 1.d – Enforcement

Summary: The Regional Water Board, in conjunction with the State Water Board Division of Water Rights and CDFW, identifies annual priority watersheds that reflect priorities for inspection based on water quality impairments and flow impacts, sensitive species and habitats, and density of known cultivation areas.

Staff initiates enforcement actions in the form of Notices of Violation (NOVs) for corrective actions, investigative orders, Cleanup and Abatement Orders, or civil penalties for those

Cannabis & Enforcement Division
 Work Plan for FY 2019-2020

activities that threaten to adversely affect water quality and violate the Clean Water Act, the Water Code, Basin Plan, and cannabis regulatory orders or Waiver conditions. Staff will issue NOVs for nonsubmittal of 2018 Annual Reports and develop enforcement cases for enrollees violating this requirement multiple years in a row. Staff will issue an administrative civil liability complaint or settlement agreement for violations of the cannabis regulatory orders or Waiver conditions and three individual cleanup and abatement orders requiring cleanups of cannabis sites and for approximately nine Tier 3 enrollees under the Regional Cannabis General Order to maintain cleanup requirements after July 1, 2019.

Staff attend interagency enforcement-based inspections with local law enforcement, CDFW, CDFG, and other agencies. These inspections occur within focused operations led by law enforcement and on Watershed Enforcement Teams. Since the logistics of these inspections are primarily organized by other agencies, staff do not know in advance how many inspections are planned each fiscal year. Staff will track the number of enforcement-based inspections conducted each fiscal year to estimate expectations from year-to-year.

Key Issues to Resolve: Streamline issuance of enforcement actions and track internal case prioritization and development. Reduced program staffing as a result of the hiring freeze will impact the number of enforcement-related inspections that staff can conduct this FY. Office of Enforcement staff assisted with enforcement inspections at the end of last fiscal year and may provide some assistance during this fiscal year. Office of Enforcement staff will provide assistance with case follow-up for those sites inspected last FY.

PY Allocation for FY 19/20: The discussion is included here as it relates to the Cannabis Program, but Cannabis Program enforcement PYs are accounted for in section 4.0 Enforcement, below.

Milestones	Target Date
Issue individual Cleanup and Abatement Orders to existing Tier 3 dischargers under the Regional Cannabis General Order to retain enforceable cleanup requirements for those sites.	September 2019
Issue Cleanup and Abatement Orders as needed to dischargers for violations of the California Water Code and/or Federal Clean Water Act	Ongoing
Issue an Administrative Civil Liability Complaint to, or establish a settlement agreement with, discharger for violations of the California Water Code and/or Federal Clean Water Act	June 2020
Participate in interagency focused operation warrant-based inspections in Humboldt and Mendocino Counties	September 2019

Priority 1.e - Hiring

Summary: Staff is poised to fill the current vacant positions in the Cannabis Cultivation Regulatory Program which are subject to a hiring freeze. Also, staff recently hired a Water Resource Control Engineer in the Southern Cannabis Regulatory Unit that will need supervisor assistance through onboarding and initial training to finish the hiring process.

Key Issues to Resolve: Onboarding and training of a recently hired Water Resource Control Engineer. Fill three recently vacated positions, including one Water Resource Control Engineer and one Environmental Scientist in the Southern Cannabis Regulatory Unit and a Senior Environmental Scientist (Specialist). Currently, the State Water Board has issued a hiring freeze for all Cannabis Program staff statewide, which prevents us from filling these positions.

PY Allocation for FY 19/20: 0.1 Management Only

Priority 1.f – Revise and Renew the Regional Cannabis Order

Summary: As of July 1, 2019, regulatory coverage under the Regional Cannabis Order is no longer available for cannabis cultivation. To maintain coverage for Cannabis cultivation previous enrollees must enroll for coverage under the Statewide Cannabis General Order. The Regional Cannabis Order, which expires on August 13, 2020, will be revised and renewed to exclude cannabis with more than 0.3% THC, for which cultivation is required to comply with the Statewide Cannabis Cultivation Policy and General Order. On December 20, 2018, the Federal Agricultural Improvement Act of 2018 (a.k.a. the 2018 Farm Bill) went into effect and removed hemp from the Federal Schedule I Control Substances list. Hemp is defined therein as cannabis with less than 0.3% Tetrahydrocannabinol (THC). Hemp is, by definition, cannabis and includes the same species of cannabis that are regulated by the Statewide Cannabis General Order. Hemp has the potential for similar environmental effects as cannabis with more than 0.3% THC, but it is exempt from the requirements of the Statewide Cannabis Cultivation Policy and General Order and it is expected to be regulated by each region's irrigated lands regulatory program. The Regional Cannabis General Order is considered an important component of the North Coast Region's irrigated lands regulatory program and it contains multiple elements that make it appropriate for the regulation of hemp: 1) it did not distinguish between different strains of cannabis based on THC content so its scope already includes hemp and 2) it more broadly includes operations with similar environmental effects.

Key Issues to Resolve: Scoping of updates to the Regional Cannabis Order and, depending on scoping, compliance with CEQA.

PY Allocation for FY 19/20: 0.5

Priority 2.a – Computer Vision Project

Summary: This project will develop technology to automatically identify cannabis cultivation sites using satellite imagery². Staff already have beta versions developed, but additional staff time is needed to integrate the tools with cannabis program business processes (e.g. enrollment enforcement).

² Staff is working in collaboration with staff from the State Water Board's Division of Water Rights and Office of Information Management and Analysis on this project. Our PY allocation does not account for the PYs allocated to this project by the State Water Board.

Key Issues to Resolve: Need to develop a comprehensive watershed case study to act as a proof of concept for future efforts; staff has submitted a purchase request for computing hardware and is investigating the use of cloud computing to resolve insufficient computer processing power, which has been a limitation on full implementation of this project; unless the Water Boards establish an ongoing contract for access to high quality imagery, the access to imagery will remain a limitation for full deployment of this tool.

PY Allocation for FY 19/20: 0.1

Priority 2.b – Support Implementation of the CIPS Contract

Summary: The State Water Board contracted with Vestra Resources, Inc. in May 2018 to spend approximately \$500,000 to enhance and upgrade CIPS throughout the State. Regional Water Board staff will need to regularly collaborate with staff at the State Water Board to ensure that contract implementation meets the needs of the North Coast Region.

Key Issues to Resolve: Need to determine the degree of contract flexibility and opportunities for database integration, platform upgrades and acquisition of new imagery.

PY Allocation for FY 19/20: 0.1

Priority 3.a – Conducting Additional Compliance Inspections

Summary: Conducting compliance inspections is a high priority task (1.a), but due to the hiring freeze, which impacts 2.6 PY, staff will not be able to conduct as many inspections. With a minimum goal of conducting 1 compliance inspection per month by each staff, our inspections will be reduced by at least a count of 36 unless the hiring freeze is lifted for vacant positions.

Key Issues to Resolve: Vacant positions subject to a hiring freeze.

PY Allocation for FY 19/20: 0.0 (1.2 PY allocated if hiring freeze lifted and vacancies filled this fiscal year)

Priority 3.b – Review and Comment on Routine CEQA documents

Summary: Reviewing and commenting on CEQA compliance documents is an important task to protect water quality, but due to the hiring freeze, which impacts 2.6 PY, staff does not have the capacity to prioritize this activity except in site specific instances, where necessary.

Key Issues to Resolve: Vacant positions subject to a hiring freeze.

PY Allocation for FY 19/20: 0.0 (0.2 PY allocated if hiring freeze lifted and vacancies filled this fiscal year)

Priority 3.c – Review and Comment on Cannabis Program Site Management Plans

Summary: Reviewing and commenting on Cannabis Program Site Management Plans is a service that if provided by staff would improve compliance and protect water quality, but due to the hiring freeze, which impacts 2.6 PY, staff does not have the capacity to prioritize this activity except in site specific instances, where necessary (e.g. when it is associated

Cannabis & Enforcement Division
Work Plan for FY 2019-2020

with applications for Water Quality Certification or higher order plans). In those instances, when staff prioritize this task it will be considered part of program implementation (priority 1.a) until the hiring freeze is lifted.

Key Issues to Resolve: Vacant positions subject to a hiring freeze.

PY Allocation for FY 19/20: 0.0 (0.2 PY allocated if hiring freeze lifted and vacancies filled this fiscal year)

3.3 Performance Targets

There are currently no Performance Targets for the Cannabis Cultivation Waste Discharge Regulatory Program. With the recent adoption of the Statewide Cannabis General Order and Policy, a statewide Roundtable has convened and begun discussions about the establishment of performance targets for this program statewide.

4.0 ENFORCEMENT

4.1 Core Activities and Projects by Priority

The primary responsibilities of the dedicated enforcement staff are categorized based on priority listed in Table 3. Most activities are described in more detail in Section 4.2.

Table 3 - FY 19/20 Program Core Activities and Projects by Priority

Priority Level	Activity/Project	Category	Target Date
1	a. Discretionary Penalty Case Development, Prioritization, and Penalty Assessment	Core	Ongoing
1	b. Mandatory Minimum Penalty Assessment	Core	Ongoing
1	c. Conduct Enforcement Inspections and Investigations	Core	Ongoing
1	d. Case Management of Complex, Long-Term Enforcement Cases	Core	Ongoing
1	e. Review proposals for Supplemental Environmental Projects (SEPs) and propose a list of projects to the Regional Water Board for approval. Then review new SEP proposals on an ongoing basis.	Core	December 2019 & Ongoing
1	f. Update regional enforcement priorities and bring to the Regional Water Board and public for input.	Core	December 2019
1	g. Hiring	Core	Ongoing
2	h. Development of Business Rules for Standardization of Enforcement Processes and train staff	Special	September 2019
2	i. Development of a Tracking and Reporting Tools for Enforcement Cases and train staff	Special	September 2019
3	a. Additional Discretionary Penalty Case Development, Prioritization, and Penalty Assessment	Core	Ongoing
3	b. Conduct Additional Enforcement Inspections and Investigations	Core	Ongoing
3	c. Additional Case Management of Complex, Long-Term Enforcement Cases	Core	Ongoing

4.2 Core Activity and Project Descriptions

Activities and projects are listed below and identified by the priority (1, 2, 3, etc.) and the letter (a, b, c, etc.) listed in Table 3 above.

Priority 1.a - Discretionary Penalty Case Development, Prioritization and Penalty Assessment

Summary: The development and prioritization of enforcement cases is a core function of the Enforcement Unit. Performance Target 1 as shown in section 4.3, below, requires that 100% of Class 1 Priority Violations result in formal enforcement or an investigative order within 18 months of discovery. This requires case development, prioritization and penalty assessment. Last fiscal year, the Regional Water Board provided input regarding regional enforcement priorities, which have been incorporated into the case prioritization process.

Cannabis & Enforcement Division
 Work Plan for FY 2019-2020

Any updates to these priorities will again need to be included into the case prioritization process.

Key Issues to Resolve: Case tracking and reporting consistent with updated business rules that reflect regional enforcement priorities to ensure achievement of Performance Target 1 and regional priorities. According to CIWQS, the database that staff utilize to track violations, as of July 1, 2019, there were 88 Class 1 priority violations without formal enforcement or investigative orders within 18 months of discovery. However, initial review of those violations indicates that many may have already resulted in formal enforcement and many others are not actually Class 1 priority violations. Those erroneous Class 1 violations appear to be the result of erroneous data entry reflecting the need for improved training of staff on determining priority violations officewide in all programs and ensuring consistent tracking, which is identified as a priority projects 1.e and 1.f. Accomplishment of project 1.e will ensure consistent application of enforcement tools (e.g. valid and verified determination of priority violations and formal enforcement actions or Water Code section 13267 investigative orders for all such violations). Completion of project 1.f will enable staff to track the internal progress of case development to ensure that the internal review process does not impact the achievement of this performance target. Based on this review, staff anticipates being able to achieve this performance target this fiscal year.

Milestones	Target Date
Review all existing Class 1 priority violations that do not have associated formal enforcement or investigative orders within 18 months for accuracy and validity and reduce these unaddressed violations by 50%.	December 2019
Address 100% of all class 1 priority violations that do not have associated formal enforcement or investigative orders within 18 months	March 2020

PY Allocation for FY 19/20: 2.0

Priority 1.b – Mandatory Minimum Penalty Assessment

Summary: The Water Code mandates the assessment of mandatory minimum penalties (MMPs) for certain violations of effluent limitations in National Pollutant Discharge Elimination System (NPDES) permits within 18 months for facilities with over \$12,000 in penalties or four or more violations. As noted below, this core activity is associated with a long-standing, statewide performance target.

Key Issues to Resolve: Performance Target 2 was not met last fiscal year due to limited staff resources available for this activity, which were impacted due to position vacancies and the need to train new staff. The unit will be fully staffed by August 1, 2019, and because

Cannabis & Enforcement Division
Work Plan for FY 2019-2020

training and onboarding still needs to occur, we do not anticipate fully meeting the performance target this fiscal year. Accomplishment of projects 1.e and 1.f will ensure that we achieve this performance target in the future. According to CIWQS, there are currently 13 facilities with more than 4 violations subject to MMPs that need to get resolved by the end of this fiscal year. We anticipate assessing MMPs for 10 out of the 13 facilities this fiscal year.

PY Allocation for FY 19/20: 1.0

Priority 1.c – Conduct Enforcement Inspections and Investigations

Summary: Conducting timely enforcement inspections and investigations is a core function of enforcement staff to develop quality enforcement cases and support other staff throughout the office to do the same. To ensure we provide timely compliance assistance to the regulated community, we have set a goal of finalizing inspection reports and transmitting them to the discharger(s) within 90 days of the inspection date.

Key Issues to Resolve: None.

PY Allocation for FY 19/20: 1.0

Priority 1.d – Development and Management of Complex, Long-Term Enforcement Cases

Summary: Once an investigative order has been issued or an enforcement action has been taken (e.g. Cleanup and Abatement Order, Cease and Desist Order, or penalty assessment with a Supplemental Environmental Project, Compliance Project, or Enhanced Compliance Action), the case requires significant amounts of staff time to ensure compliance or, if necessary, further enforcement. Following-up on enforcement actions was recently identified by the Board as an enforcement priority.

Key Issues to Resolve: Track staff time for this activity.

PY Allocation for FY 19/20: 2

Priority 1.e – Develop and post on our website a list of potential SEPs for use in settlement of enforcement actions

Summary: The 2017 State Water Board SEP Policy requires that each Regional Water Board establish a list of potential SEPs that may be used in settling enforcement actions. Regional Water Boards may also maintain a list of interested parties to contact for project proposals at the time of settlement of enforcement actions. Regional Water Board staff sent a letter to dozens of agencies and organizations regionwide to solicit project proposals for review and consideration to be added to the initial list for posting. During FY 2019/20, Regional Board staff will:

- Compile and present proposed initial SEP list and list of interested parties to the Regional Water Board at its October 2019 meeting for approval.

Cannabis & Enforcement Division
Work Plan for FY 2019-2020

- Review new project proposals and update the posted list on a quarterly basis (~Jan 2020; March 2020; and June 2020)
- Assess success of initial project solicitation and consider additional/revised outreach and solicitation efforts if appropriate.

Key Issues to Resolve: None.

PY Allocation for FY 19/20: 0.2

Milestones	Target Date
Review proposed SEP projects and propose an initial SEP list and list of interested parties to the Regional Water Board for adoption at the October 2019 Board Meeting.	December 2019
Review new proposals and update the posted list on a quarterly basis	March 2020
Review new SEP proposals and update the posted list on a quarterly basis	June 2020

Priority 1.f – Update Regional Enforcement Priorities

Summary: The Enforcement Policy recommends that, on an annual basis, enforcement staff for each Regional Water Board seek input at a regularly noticed public meeting of the Regional Water Board and consider identifying general enforcement priorities based on input from members of the public and Regional Water Board members.

Key Issues to Resolve: None.

PY Allocation for FY 19/20: 0.05

Priority 1.g – Hiring

Summary: The Enforcement Unit currently has no vacancies. We recently hired 2 new staff in the Enforcement Unit that will need training and onboarding to complete the hiring process.

Key Issues to Resolve: None.

PY Allocation for FY 19/20: 0.05 Management only.

Priority 2.a – Development of Business Rules for Standardization of Enforcement Processes

Summary: Staff is currently in the process of developing business rules to standardize enforcement processes to ensure fair and consistent enforcement throughout the region and the various programs in the office. Once finalized, we will need to train staff.

Key Issues to Resolve: Staff training.

PY Allocation for FY 18/19: 0.02

Priority 2.b – Development of Tracking and Reporting Tools for Enforcement Cases

Summary: Staff is currently developing tools to track, and report back out to management on, the status of individual enforcement case development to ensure effective case prioritization consistent with the regional priorities and more timely enforcement action. Once finalized, we will need to train staff on the use of these tools.

Key Issues to Resolve: Integration with CIWQS and training staff on the use of these new tools.

PY Allocation for FY 19/20: 0.08

Priority 3.a – Additional Discretionary Penalty Case Development, Prioritization, and Penalty Assessment

Summary: Discretionary penalty case development and assessment is an important task to protect water quality (priority 1.a), but due to the hiring freeze, which impacts 1.0 PY allocated toward Cannabis Enforcement, staff does not have the capacity to prioritize 0.3PY associated with this activity except in site specific instances, where necessary.

Key Issues to Resolve: Vacant positions subject to a hiring freeze.

PY Allocation for FY 19/20: 0.0 (0.3 PY allocated if hiring freeze lifted and vacancies filled this fiscal year)

Priority 3.b – Conduct Additional Enforcement Inspections and Investigations

Summary: Conducting enforcement inspections and investigations is an important task to protect water quality (priority 1.c), but due to the hiring freeze, which impacts 1.0 PY allocated toward Cannabis Enforcement, staff does not have the capacity to prioritize 0.5 PY associated with this activity except in site specific instances, where necessary.

Key Issues to Resolve: Vacant positions subject to a hiring freeze.

PY Allocation for FY 19/20: 0.0 (0.5 PY allocated if hiring freeze lifted and vacancies filled this fiscal year)

Priority 3.c – Additional Case Management of Complex, Long-Term Enforcement Cases

Summary: Case management of complex, long-term enforcement cases is an important task to protect water quality (priority 1.d), but due to the hiring freeze, which impacts 1.0 PY allocated toward Cannabis Enforcement, staff does not have the capacity to prioritize 0.2PY associated with this activity except in site specific instances, where necessary.

Key Issues to Resolve: Vacant positions subject to a hiring freeze.

Cannabis & Enforcement Division
Work Plan for FY 2019-2020

PY Allocation for FY 19/20: 0.0 (0.3 PY allocated if hiring freeze lifted and vacancies filled this fiscal year)

4.3 Performance Targets

Proposed for FY 19/20

Target 1: 100% of Class 1 Priority Violations will Result in Formal Enforcement or an Investigative Order Pursuant to Water Code Section 13267 within 18 Months of Discovery.

Target 2: 0 Facilities with Over \$12,000 in MMPs (4 or More Violations) Not Assessed within 18 Months of Accrual.