


State Water Resources Control Board
Workshop

**Proposed Updates to
Cannabis Policy, Staff Report, and
Cannabis Cultivation General
Order**

October 16, 2018
Board Meeting Item No. 6
State Water Resources Control Board



Workshop Agenda

- ▶ State Water Board staff presentation
- ▶ Opportunity for public comments
- ▶ Following public comments staff will be available in lobby
 - ▶ Answer any additional questions
 - ▶ Help cannabis cultivators start their application for the General Order Permit and Small Irrigation Use Registration


Presentation Outline

- ▶ Water Boards Responsibilities
- ▶ Water Boards Cannabis Program Background
- ▶ Overview of Proposed Updates
- ▶ Overview of New Websites
- ▶ Timeline and Next Steps

Water Boards Responsibilities

Legislative Authority


- ▶ Three bills adopted in 2015 – Assembly Bills (AB) 243 and 266; Senate Bill (SB) 643 (MMRSA)
- ▶ SB 837 adopted in June 2016 – included clean up language for three 2015 bills (MCRSA)
- ▶ Proposition 64 passed November 2016, allowing recreational cannabis use for adults (AUMA)
- ▶ SB 94 adopted June 2017 – consolidated provisions of MCRSA and AUMA and established the Medicinal and Adult-Use Cannabis Regulations and Safety Act (MAUCRSA)



Water Boards Responsibilities (cont'd)

"The state board or appropriate regional board shall address discharges of waste resulting from cannabis cultivation under [MAUCRSA] and associated activities, including by adopting a general permit, establishing waste discharge requirements..."

Water Code Section 13276 (b)



Water Boards Responsibilities

Ensure individual and cumulative effects of water diversion and discharge associated with cannabis cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability

Business and Professions Code section 26060.1(b)

Water Boards Responsibilities (cont'd)

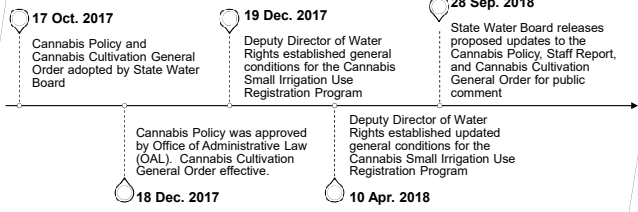
The State Water Board, in consultation with CDFW, shall adopt principles and guidelines for diversion and use of water for cannabis cultivation:

- ▶ Shall include measures to protect springs, wetlands, and aquatic habitat from negative impacts of cannabis cultivation
- ▶ May include requirements that apply to groundwater extractions

Water Code Section 13149(a)(1)(A) and (a)(2)

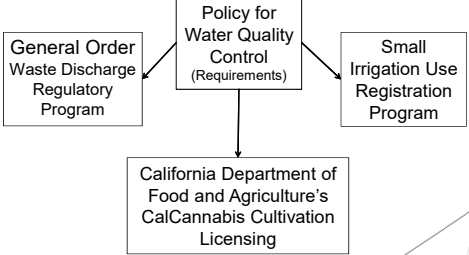
Water Boards Cannabis Program Background

Water Boards - Cannabis Cultivation Program Background



- 17 Oct. 2017**: Cannabis Policy and Cannabis Cultivation General Order adopted by State Water Board
- 18 Dec. 2017**: Cannabis Policy was approved by Office of Administrative Law (OAL). Cannabis Cultivation General Order effective.
- 19 Dec. 2017**: Deputy Director of Water Rights established general conditions for the Cannabis Small Irrigation Use Registration Program
- 10 Apr. 2018**: Deputy Director of Water Rights established updated general conditions for the Cannabis Small Irrigation Use Registration Program
- 28 Sep. 2018**: State Water Board releases proposed updates to the Cannabis Policy, Staff Report, and Cannabis Cultivation General Order for public comment

Cannabis Policy Regulatory Flow



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    graph TD
      A[Policy for Water Quality Control Requirements] --> B[General Order Waste Discharge Regulatory Program]
      A --> C[Small Irrigation Use Registration Program]
      A --> D[California Department of Food and Agriculture's CalCannabis Cultivation Licensing]
  
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Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation

- Main Document**
 - Provides overview of Water Boards' program and context for how it fits with other regulatory programs
 - Establishes 14 regions throughout state for instream flow requirements
 - Continuing authority to amend Policy
 - Describes how Policy is enforced
- Attachment A: Cannabis Cultivation Requirements**
 - Section 1 – Definitions, General Requirements, and Prohibitions
 - Section 2 – Requirements for Water Diversion and Waste Discharge (10 subsections)
 - Section 3 – Numeric and Narrative Instream Flow Requirements
 - Section 4 - Watershed Compliance Gage Assignments
 - Section 5 – Planning and Reporting
 - Section 6 – Useful Guidance Documents

Overview of Proposed Updates

Cannabis Policy and Cannabis Cultivation General Order Update

- ▶ Main updates proposed to Cannabis Policy and Cannabis Cultivation General Order are focused on:
 - ▶ Onstream Reservoirs
 - ▶ Tribal Buffers (permission to cultivate on and/or within 600 feet)
 - ▶ Requirements for Conditionally Exempt Indoor Cultivation Sites
 - ▶ Minor clean up and clarifications based on feedback received during initial implementation efforts
- ▶ Proposed updates are shown in:
 - ▶ **red bold/underline** for new text
 - ▶ ~~red bold/strike-out~~ for deleted text
- ▶ Broader review and update will be completed in future (anticipated 2021/2022)

Updates to Main Document of Cannabis Policy

Clarify Cannabis Cultivation General Order conditional exemption requirements for indoor commercial cannabis cultivation activities

- ▶ Comply with Cannabis Policy and all applicable Requirements in Attachment A, and either:
 - ▶ Discharge all industrial wastewaters generated to a permitted wastewater treatment collection system and facility that accepts cannabis cultivation wastewater; or
 - ▶ Collect all industrial wastewater in an appropriate storage container to be stored and properly disposed of by a permitted wastewater hauler at a permitted wastewater treatment facility that accepts cannabis cultivation wastewater

Cannabis Policy Page 17

Attachment A – Tribal Buffers

- ▶ Policy requires cannabis cultivators to obtain written permission from affected tribe if cultivation area is on or within 600 feet of Tribal lands
- ▶ Updated requirement to improve implementation and provide more options for tribes to approve/deny requests:
 - ▶ Water Boards notify tribes of request to cultivate on or within 600 feet of tribal lands; 45-day period for the tribe to accept, reject, or remain silent (considered acceptance)
 - ▶ Tribe can inform State Water Board that the tribe does not approve any cannabis cultivation on and/or within 600 feet
 - ▶ Tribe can waive the 45-day notification period for all cannabis cultivation on and/or within 600 feet (blanket approval)

Cannabis Policy, Attachment A, Section 1, Requirement 19

Attachment A - Requirements for Conditionally Exempt Indoor Cultivation Sites

- ▶ Added Requirement 38 to provide exemption from riparian setbacks and tribal buffers for indoor cultivation sites that meet certain conditions
- ▶ Recognizes certain indoor cultivation sites pose less of a threat to discharge to waters of the state
- ▶ Exemption criteria differ for indoor cultivation sites that existed prior to October 1, 2018 versus new sites (options outlined on subsequent slides)
- ▶ Riparian setback exemption does not apply if Regional Water Board's Executive Officer determines that an exemption from riparian setbacks is not protective of water quality

Attachment A - Requirements for Conditionally Exempt Indoor Cultivation Sites (cont'd)

- Option 1:** Building permit on file with county, city, or local jurisdiction and started construction **prior to October 1, 2018**
- ▶ Valid certificate of occupancy for indoor cannabis cultivation; and
- ▶ Either:
 - ▶ Connected to and discharges any industrial wastewater to a permitted wastewater treatment collection system; or
 - ▶ Discharges any industrial wastewater directly to storage tank, and discharge is properly disposed of by a permitted wastewater hauler at a permitted wastewater treatment facility



Cannabis Policy, Attachment A, Section 1, Requirement 38

Attachment A - Requirements for Conditionally Exempt Indoor Cultivation Sites (cont'd)

Option 2: Building permit on file with the county, city, or local jurisdiction and construction **started on or after October 1, 2018**

- ▶ Valid certificate of occupancy for indoor cannabis cultivation; and
- ▶ Connected to and discharges any industrial wastewater to a permitted wastewater treatment collection system
 - ▶ If the permitted wastewater treatment collection system and facility that the structure is connected to does not accept cannabis cultivation wastewater, the cultivator may still qualify
 - ▶ Discharges any industrial wastewater directly to storage tank, and discharge is properly disposed of by a permitted wastewater hauler at a permitted wastewater treatment facility

Cannabis Policy, Attachment A, Section 1, Requirement 38

19

Attachment A - Onstream Reservoirs

- ▶ Modify Policy to provide path for cultivators with certain pre-existing onstream reservoirs to obtain a Cannabis Small Irrigation Use Registration (SIUR) if:
 - ▶ **Reservoir existed prior to October 1, 2016;** and
 - ▶ Deputy Director for Division of Water Rights and CDFW determine removal of reservoir or installation of off-stream storage would cause more environmental damage than continuing to use onstream reservoir for diversion and storage

Cannabis Policy, Attachment A, Section 2 Requirement 79

20

Attachment A - Onstream Reservoirs (cont'd)

- ▶ As part of filing for a Cannabis SIUR, cannabis cultivator shall agree to:
 - ▶ Request a determination from Deputy Director and CDFW to determine whether removal of reservoir or installation of off-stream storage would cause more environmental damage than continuing to use existing onstream reservoir for diversion and storage
 - ▶ Accept any conditions imposed before or after issuance of Cannabis SIUR as part of determinations to ensure any modifications and ongoing operation of the onstream reservoir are protective of water quality and aquatic resources (bypass flows, diversion rates, etc.)
 - ▶ Withdrawal of water from onstream reservoir for cannabis cultivation activities is only allowed during surface water diversion forbearance period
- ▶ Onstream reservoirs that do not qualify for ongoing operation under the SIUR will either need to be removed or otherwise rendered incapable of storing water

Cannabis Policy, Attachment A, Section 2 Requirement 79

21

Attachment A – Onstream Reservoirs (cont'd)

- ▶ **Existing Water Right Registrations**
 - ▶ Onstream reservoirs with an existing valid water right registration for onstream storage that does not identify commercial irrigation as a purpose of use (i.e., Livestock Stockpond Use Registrations, Small Domestic Use Registrations) may also file for a Cannabis SIUR, thereby requesting Deputy Director (or designee) and CDFW to make determinations and condition the Cannabis SIUR

Cannabis Policy, Attachment A, Section 2 Requirement 79

Attachment A – Onstream Reservoir (cont'd)

- ▶ State Water Board may impose additional conditions before or after issuance of Cannabis SIUR to:
 - ▶ Ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and flows needed to maintain natural flow variability;
 - ▶ Ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and
 - ▶ Otherwise protect fish, wildlife, fish and wildlife habitat, and water quality

Cannabis Policy, Attachment A, Section 2 Requirement 80

Attachment A – Onstream Reservoir Measurement Requirement

- ▶ Cannabis cultivators with onstream reservoirs shall install and maintain a measuring device (e.g., water level sensor and area-capacity curve) capable of recording the date, time, and volume of water diverted at an hourly or more frequent basis, year-round
- ▶ Measurement device shall be installed and calibrated by a Qualified Professional (including development of area-capacity curve)
- ▶ Maintain hourly depth and volume records from measurement device and area-capacity curves at cultivation site
 - ▶ Shall make records available for review upon request by staff from Water Boards or CDFW

Cannabis Policy, Attachment A, Section 2 Requirement 83

24

Other Policy Clarifications and Cleanups

- ▶ Examples include:
 - ▶ Added definition for Industrial Wastewater
 - ▶ Updated language in Attachment A, Section 1, Requirement 21 to clarify that cultivators do not need to physically go the CHRIS information center
 - ▶ Updated Staff Report to support Cannabis Policy changes
 - ▶ Fixed grammatical and formatting errors

Cannabis Cultivation General Order

- ▶ Applicable Policy updates were also made to Cannabis Cultivation General Order to ensure consistency



Regional Water Board	Mailing Address	E-Mail Address
North Coast	5550 Skyline Blvd., Ste. A Santa Rosa, CA 95403	Northcoast.cannabis@waterboards.ca.gov
San Francisco Bay	1515 Clay Street, Ste. 1400 Oakland, CA 94612	Sanfranciscobay.cannabis@waterboards.ca.gov
Central Coast	895 Aerovista Place, Ste. 101 San Luis Obispo, CA 93401	Centralcoast.cannabis@waterboards.ca.gov
Los Angeles	320 W. 4th Street, Ste. 200 Los Angeles, CA 90013	Losangeles.cannabis@waterboards.ca.gov
Central Valley Redding Office	364 Knollcrest Drive, Ste. 205 Redding, CA 96002	Centralvalleyredding@waterboards.ca.gov
Central Valley Sacramento Office	11020 Sun Center Drive, Ste. 200 Rancho Cordova, CA 95670	Centralvalleysacramento@waterboards.ca.gov
Central Valley Fresno Office	1685 E Street Fresno, CA 93706	Centralvalleysacramento@waterboards.ca.gov
Lahontan South Lake Tahoe Office	2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150	Lahontan.cannabis@waterboards.ca.gov
Lahontan Victorville Office	15065 Amargosa Road - Bldg 2, Ste. 210 Victorville Ca 92394	Lahontan.cannabis@waterboards.ca.gov
Colorado River	73-720 Fred Waring Dr., Ste. 1100 Palm Desert, CA 92260	Lahontan.cannabis@waterboards.ca.gov
Santa Ana	3737 Main Street, Suite 500 Riverside, CA 92501	Santaana.cannabis@waterboards.ca.gov
San Diego	2375 Northside Drive, Ste. 110 San Diego, CA 92108	SanDiego.cannabis@waterboards.ca.gov

Cannabis Cultivation General Order

- ▶ Monitoring and Reporting Program emails updated
- ▶ Requires existing enrollees to comply with water diversion and instream flow requirements
- ▶ Removed redundant findings

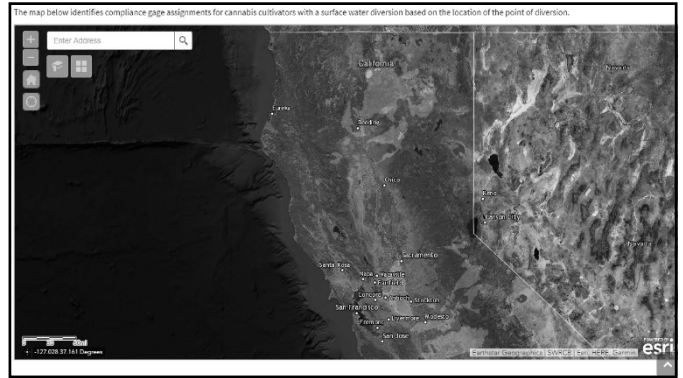
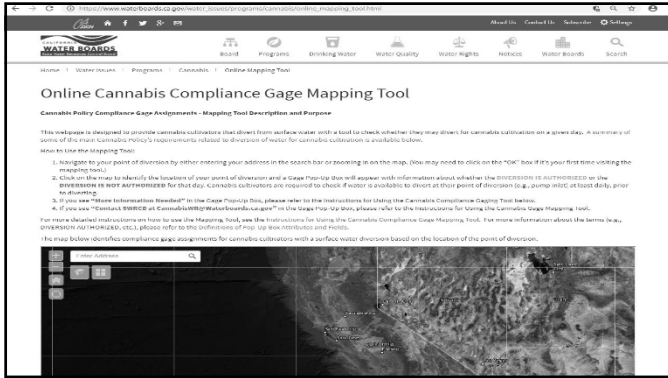
Overview of New Websites and Tools

Overview of New Websites and Tools

- ▶ Online Cannabis Compliance Gage Mapping Tool
 - ▶ https://www.waterboards.ca.gov/water_issues/programs/cannabis/online_mapping_tool.html
- ▶ Map of Existing Flow Requirements
 - ▶ https://www.waterboards.ca.gov/water_issues/programs/cannabis/existing_flow_req.html
- ▶ Cannabis Compliance Gages
 - ▶ https://www.waterboards.ca.gov/water_issues/programs/cannabis/lessmann_instream_flow_requirements.html

Cannabis Compliance Gages Website

- ▶ Provides a current list of Cannabis Policy's active compliance gages and associated instream flow requirements
- ▶ Organized by Cannabis Policy Regions
- ▶ Not to be used to determine whether or not diversions on a specific day can occur



Online Mapping Tool (cont'd)

▶ Click on map to identify location of your point of diversion and a Gage Pop-Up Box will appear with information about whether **DIVERSION IS AUTHORIZED** or **DIVERSION IS NOT AUTHORIZED** for that day

▶ Cannabis cultivators are required to check if water is available to divert at their point of diversion (e.g., pump inlet) **at least daily**, prior to diverting

Online Mapping Tool (cont'd)

▶ Indicates that surface water diversion is subject to an existing instream flow requirement that may be more restrictive than what is prescribed by Cannabis Policy

▶ Cannabis cultivators responsibility to determine whether they are following all instream flow requirements prior to diverting

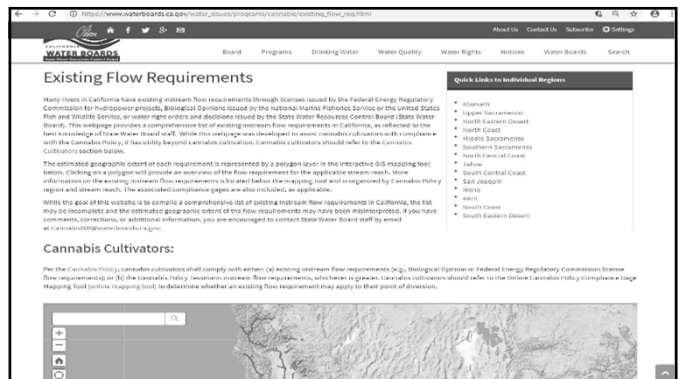
Online Mapping Tool (cont'd)

Dry Water Year Type			
Month	Existing Flow Requirement*	Cannabis Policy Flow Requirement	Effective Flow Requirement
November	70 cfs	124 cfs	124 cfs
December	70 cfs	142 cfs	142 cfs
January	70 cfs	187 cfs	187 cfs
February	70 cfs	195 cfs	195 cfs
March	70 cfs	172 cfs	172 cfs

Normal Water Year Type			
Month	Existing Flow Requirement*	Cannabis Policy Flow Requirement	Effective Flow Requirement
November	95 cfs	124 cfs	124 cfs
December	95 cfs	142 cfs	142 cfs
January	95 cfs	187 cfs	187 cfs
February	95 cfs	195 cfs	195 cfs
March	80 cfs	172 cfs	172 cfs

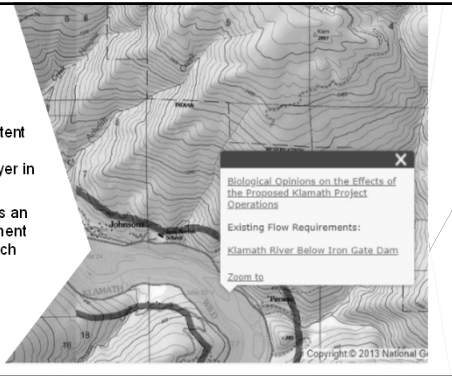
*Federal Energy Regulatory Commission has issued a new license to the Pacific Gas and Electric Company for the DeSabi-Centerville Hydroelectric Project, which asserts minimum instream flow requirement at USGS gage 11390000 as summarized in the above table.

Web Link to Water Quality Certification: [Water Quality Certification for the DeSabi-Centerville Hydroelectric Project](#)

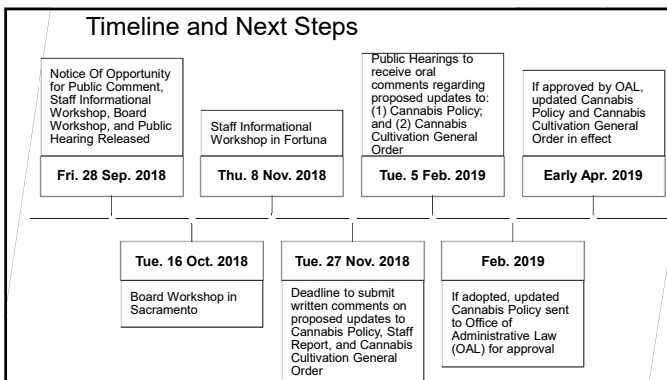


Existing Flow Requirement Website (Cont'd)

- ▶ Estimated geographic extent of each requirement is represented by yellow layer in GIS mapping tool
- ▶ Clicking on layer provides an overview of flow requirement for applicable stream reach



Timeline and Next Steps



Public Participation

- ▶ How can you participate?
 - ▶ Participate in workshops
 - ▶ Submit written comments
 - ▶ **Deadline to submit comments is: 12:00 PM (noon) on Tuesday, November 27, 2018**
- ▶ Email: commentletters@waterboards.ca.gov
- ▶ Written Correspondence:
 - State Water Resources Control Board
 - Clerk to the Board
 - Attn: Jeanine Townsend
 - P.O. Box 100
 - Sacramento, CA 95812-0100

Important Webpages

- ▶ **Water Boards Cannabis Programs Homepage:**
<https://www.waterboards.ca.gov/cannabis/>
 - ▶ Access Notice, Draft Policy, Draft General Order, and Draft Staff Report (out for public comment)
- ▶ **Water Boards Cannabis Cultivation Application Portal:**
<https://public2.waterboards.ca.gov/cgo>
 - ▶ Apply for coverage under the Cannabis General Order and file for a Cannabis Small Irrigation Use Registration water right

Contact Information

- ▶ **Cannabis Website**
 - ▶ www.waterboards.ca.gov/cannabis
- ▶ **Cannabis Policy Questions**
 - ▶ CannabisWR@waterboards.ca.gov
 - ▶ 916.341.5363
- ▶ **Cannabis Small Irrigation Use Registration Questions**
 - ▶ CannabisReg@waterboards.ca.gov
 - ▶ 916.319.9427
- ▶ **Cannabis General Order (WDRs/Waiver) Questions**
 - ▶ DWQ.Cannabis@waterboards.ca.gov
 - ▶ 916.341.5580

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