

Fiscal Year 2022 / 2023 WORK PLAN

Cannabis & Enforcement Division

Programs: Cannabis Cultivation Waste Discharge Regulation Enforcement

Division Supervisor: Kason Grady



Cannabis & Enforcement Division
Work Plan for FY 2022 / 2023

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Regional Water Quality Control Board, 2021.

1.0 BACKGROUND

The Cannabis & Enforcement Division includes three units: two units dedicated to the implementation and enforcement of the statewide [Cannabis Cultivation Waste Discharge Regulatory Program](#) (a.k.a. the Cannabis Program) and one 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 issuance of 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 continues to be widely prevalent in the North Coast Region and throughout the state and is often located in sensitive environmental areas where cultivation and related 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 and use of access roads have resulted in significant erosion and sediment discharges to waterbodies.

The North Coast Regional Water Quality Control Board (Regional Water Board) received initial funding in Fiscal Year 2014 / 2015 (FY 14/15) to establish a pilot program to regulate discharges of waste from cannabis cultivation and, in 2015, developed the first water quality order regulating cannabis cultivation in the state (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 various Regional Water Boards, developed the Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation (Cannabis Cultivation Policy) in accordance with California 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 (WDRs) and Waiver of WDRs for Discharges of Waste Associated with Cannabis Cultivation (Cannabis General Order). Subsequent updates to the Cannabis Cultivation Policy (Resolution No. 2019-0007) and amendments to the Cannabis General Order (WQ 2019-0001-DWQ) were adopted by the State Water Board and became effective on April 16, 2019. The geographic scope of the Cannabis Cultivation Policy and Cannabis General Order encompasses the entire state with priority regions established for areas with streams bearing anadromous fish habitat.

By July 1, 2019, all cannabis cultivators enrolled under the Regional Cannabis Order were required either to transition their enrollment to the Cannabis General Order or to terminate their enrollment altogether. Approximately two-thirds of Regional Cannabis Order enrollees ultimately completed the transition. As of May 2022, there are currently 3,323 enrollments in the Cannabis General Order within the North Coast Region and a total of 6,371 enrollments statewide.

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The Cannabis Cultivation 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 establishes requirements related to water diversion and waste discharge. 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.

The Cannabis Program staff's primary duties include implementation and enforcement of the Cannabis Cultivation Policy and Cannabis General Order, the Water Quality Control Plan for the North Coast Region (Basin Plan), the Porter-Cologne Water Quality Control Act (California Water Code), and the federal Clean Water Act to ensure protection of water quality and to address violations associated with cannabis cultivation.

Other Program Activities

- Issuing Water Quality Certifications for instream work associated with cannabis cultivation operations.
- Coordinating with State Water Board Divisions and Offices, other Regional Water Boards, CDFW, the Department of Cannabis Control (DCC, formerly CDFA), tribes, and local agencies.
- Conducting education and outreach to the public, media, and industry and watershed groups.
- Collaborating with partners (State Water Board, CDFW, etc.) to develop technology and enterprise tools that will improve our ability to implement the Cannabis Program more effectively and efficiently.

To address challenges faced by the Cannabis Program, an Executive Oversight Committee was formed in 2019, which is comprised of executive management from the State Water Board Office of Enforcement and Divisions of Water Quality, Water Rights, Administrative Services and the Central Valley, Central Coast, and North Coast Regional Water Boards. In response to budget shortfalls and a subsequent reduction in Cannabis Program staffing (approximately 50 percent for water quality programs), the Executive Oversight Committee provided direction in 2020 to reduce program scope by discontinuing work in some areas while prioritizing efforts in others to achieve two primary objectives: 1) increase program enrollment of potential legal cultivation sites, and 2) address adverse water quality and water supply impacts from illegal cultivation through enforcement.

Similar to last year, this Work Plan for FY 22/23 adheres to the Executive Oversight Committee's direction by maximizing available resource allocations to enforcement on illegal cannabis cultivation sites (Priority 1.b.i, below) and by minimizing allocations to Cannabis General Order Implementation (Priority 1.c, below) and Cannabis General Order Compliance Assessment (Priority 2.b, below). Notably, allocations to enrollment enforcement activities have been eliminated for this FY based, in part, on preferences expressed by county partners in FY 21/22 that we allow county cleanup and abatement

procedures to play out at illegal sites prior to enrolling them in the Water Boards' regulatory program.

1.2 Enforcement

Enforcement involves the 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 federal Clean Water Act, the California Water Code, and the Basin Plan. The Regional Water Board, with its staff, conducts enforcement for violations identified from complaints, routine compliance assessments of permitted sites, and through warrant and consent inspections of unpermitted sites. Enforcement is also conducted through collaboration with other local, state and federal agencies. For instance, one of the Cannabis Program's primary responsibilities is to pursue violations associated with cannabis cultivation activities, in collaboration with CDFW's Watershed Enforcement Team (WET) and DCC's cannabis program. The collaboration between these agencies is collectively referred to as the statewide Cannabis Enforcement Program (CEP). The Regional Water Board's Enforcement Program also supports and attends Environmental Crimes Task Forces (Task Forces) with local counties and other agencies in the region. Participation in Task Forces serves to increase enforcement effectiveness and reduce environmental crimes through strategic coordination with a diverse group of regulatory entities. Task Forces are venues that facilitate interagency coordination and support, especially in the investigation and response to complaints received from the public about environmental pollution and violations.

The federal Clean Water Act, the California Water Code and the Basin Plan prohibit the discharge of materials that adversely affect the quality and beneficial uses of the waters of the state. The Regional Water Board has the authority to take enforcement actions, ranging from Notices of Violation, to Cleanup and Abatement Orders or imposition of administrative civil liabilities (monetary penalties) against persons who violate the regulatory requirements of the Clean Water Act, California Water Code, and the Basin Plan.

The Enforcement Program's 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. In October 2020, staff proposed, and the Regional Water Board endorsed, the following enforcement priorities and additional screening criteria for the North Coast Region:

- Prioritize and pursue enforcement cases for waste discharge violations associated with site development and use for cannabis cultivation without applicable permits.
- Prioritize and pursue enforcement cases for waste discharge violations associated with agricultural activities other than cannabis cultivation.
- Prioritize and pursue enforcement cases for individuals/entities conducting unauthorized dredge/fill activities in surface waters.

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- Pursue timely enforcement on missed deadlines in existing enforcement orders.
- Prioritize and pursue regulatory oversight and enforcement for violations of NPDES stormwater permits.

Additional Screening Criteria:

- Violation has resulted in threats/impacts to critical habitat.
- Violation has affected a water of the state that resource protection agencies, including the Water Boards, have spent money restoring.
- Violation is contributing to a watershed impairment.
- Violation has resulted in impacts to a public drinking water supply that serves a disadvantaged or severely disadvantaged community or a community with financial hardship.
- Violation was caused by or resulted from activities conducted without a required permit(s) or authorization(s) from the Regional Water Board.

The Regional Water Board and its staff may also pursue enforcement for unexpected significant cases outside of these priorities including, but not necessarily limited to those that involve high threats, significant impacts, or egregious discharger conduct.

As discussed in Section 4.2, the Regional Water Board will consider potential changes to these enforcement priorities in October 2022.

2.0 DIVISION RESOURCES

2.1 Staffing

The Enforcement Unit is the one unit dedicated to leading and implementing regionwide enforcement efforts associated with all Regional Water Board programs. Additionally, two units implement the Cannabis Cultivation Waste Discharge Regulatory Program: (1) the Northern Cannabis Regulatory Unit, which is stationed in Eureka at the Regional Water Board's northern field office, and (2) the Southern Cannabis Regulatory Unit, which is stationed in Santa Rosa at the Regional Water Board's main office. Staff in all three units in the Division participate in the enforcement of violations associated with cannabis cultivation. There is one dedicated analyst for the Cannabis Program in the Administration Unit. Consistent with all divisions in the office, the Cannabis & Enforcement Division also receives support from the other staff in the Administration Unit.

Table 1 below summarizes Cannabis & Enforcement Division staff resources. References to staff classifications include WRCE for Water Resource Control Engineer, AGPA for Associate Government Program Analyst, EG for Engineering Geologist, and ES for Environmental Scientist.

Table 1 – Cannabis & Enforcement Division Staff Resources

| Position | Name | Classification | PY |
|---|------------------|-----------------------|-----------|
| Division Chief | Kason Grady | Supervising WRCE | 1.0 |
| Administration Unit (Cannabis Program) | Tonya Weiper | AGPA | 1.0 |
| Southern Cannabis Unit | David Kuszmar | Senior WRCE | 1.0 |
| Southern Cannabis Unit | TBD | Scientific Aid | n/a |
| Southern Cannabis Unit | TBD | Student Intern | n/a |
| Northern Cannabis Unit | Mona Dougherty | Senior WRCE | 1.0 |
| Northern Cannabis Unit | Shannon Utley | EG | 1.0 |
| Northern Cannabis Unit | Katherine Hawken | WRCE | 1.0 |
| Northern Cannabis Unit | Ermias Berhe | EG | 1.0 |
| Enforcement Unit | Jeremiah Puget | Senior ES | 1.0 |
| Enforcement Unit | Zane Stromberg | ES | 1.0 |
| Enforcement Unit | Jordan Filak | ES | 1.0 |
| Enforcement Unit (Cannabis Program) | Adona White | WRCE | 1.0 |
| Enforcement Unit (Cannabis Program) | Brian Fuller | EG | 1.0 |

TOTAL: 12.0

3.0 CANNABIS CULTIVATION WASTE DISCHARGE REGULATORY PROGRAM

3.1 Core Activities and Projects by Priority

As noted in Section 1.1, based on guidance and direction from the Cannabis Executive Oversight Committee, this year’s Work Plan continues to place a higher priority on enforcement-related activities for the Cannabis Program as compared to previous years’ Work Plans. Given limited Cannabis Program staff resources, this prioritization means less staff time is available to complete other program activities and services to enrollees. The primary responsibilities of program staff are categorized based on priority levels (1, 2, 3) listed in Table 2 below. Priority Level 1 represents activities and projects that will be the focus of staff resources; Priority Level 2 represents activities and projects that may not get accomplished due to resource limitations, and Priority 3 represents work that staff may not accomplish unless additional resources become available. Most activities are described in more detail in Section 3.2.

Table 2 – FY 22/23 Cannabis Program Core Activities and Projects by Priority

| Priority Level | Activity/Project | Category | Target Date |
|----------------|---|----------------|-------------|
| 1 | Staff Supervision and Program Management | Core | Ongoing |
| 1 | Cannabis Program Enforcement | Core | Ongoing |
| 1 | Cannabis General Order Implementation | Core | Ongoing |
| 1 | Agency Coordination | Core / Special | Ongoing |
| 1 | Unplanned Work Activities | Core | Ongoing |
| 2 | Water Quality Certification Statewide Coordination Project | Special | Ongoing |
| 2 | Cannabis General Order Compliance Assessment | Core | Ongoing |
| 3 | Cannabis General Order Implementation (not otherwise performed under Priority 1.c above) | Core | Ongoing |
| 3 | Cannabis General Order Compliance Assessment (not otherwise performed under Priority 2.b above) | Core | Ongoing |
| 3 | Education and Outreach | Core | Ongoing |

3.2 Core Activity and Project Descriptions

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

Priority 1.a – Staff Supervision and Program Management

Summary: Staff supervision is the primary responsibility of supervisors along with management of the Cannabis Program. Therefore, the three supervisors of the Cannabis Program spend a substantial portion of their time training, coaching and mentoring staff, developing/updating individual staff work plans, and appraising performance. If opportunities arise to fill vacant positions, hiring and onboarding new staff becomes supervisors' highest priority. Staff supervisory duties accounted for here include, among other tasks, meeting with staff to direct project work, reviewing and approving staff work products, and tracking task and project progress.

Program management duties accounted for here include both interagency and intra-agency coordination. The Cannabis Program managers work closely with State Water Board Divisions and Offices, other Regional Water Boards, and other federal, state, and local agencies to participate in statewide and regional program planning, permitting, and enforcement efforts, coordinate the review and oversight of cannabis cultivation activities, comment on proposed legislation, respond to press inquiries and public records requests, and communicate regularly on issues with the potential to affect statewide and local programs.

With three Cannabis Program supervisors, the 1.95 PY allocation listed below reflects most of the available time of Cannabis Program management. Due to the lasting impacts of past reductions of program staff, program supervisors must also work on special projects, including:

- Coordinating with the State Water Board to develop procedures for determining onstream pond allowances, and for processing applications for Water Quality Certifications under the Cannabis Cultivation Policy and Cannabis General Order; see the **0.05 PY management allocation in Priority 2.a**, below, and
- Reviewing and analyzing annual monitoring report data to identify regional compliance issues, and to prioritize focused reviews, outreach, and corrective actions to address those issues; see the **0.05 PY management allocation in Priority 2.b**, below.

Also, due to the extent of management time spent on interagency coordination, the **0.65 PY management allocation** for that activity is separately accounted for in **Priority 1.e**, below.

Considerations and Key Issues to Resolve: As the northern field office in Eureka has expanded to support several programs, time spent managing the office is no longer solely in support of the Cannabis Program. Staff have been assigned to the office from a variety of programs and divisions. Moreover, when staff travel from the Santa Rosa office to conduct work in the Eureka area, they sometimes stage their work from the northern field office. Duties and tasks associated with managing the northern field office

include: coordinating with Facilities, IT, and Health and Safety staff; coordinating vehicle and equipment maintenance and use; managing supplies; orienting new and visiting staff to the office; coordinating health and safety equipment, records, and training.

Considerations and Key Issues to Resolve: N/A

PY Allocation for FY 22/23: 1.95 (Management only)

| Milestones | Target Date |
|---|-------------|
| Reassess staff duties to implement this FY 22/23 Work Plan, identify staff to perform specific enforcement tasks, update staff duty statements as necessary, and develop individual staff work plans. | July 2022 |
| Conduct performance appraisals for all staff. | May 2023 |

Priority 1.b – Cannabis Program Enforcement

Summary: As noted in Section 1.2, the following three enforcement priorities are particularly relevant to the Cannabis Program:

Prioritize and pursue enforcement cases for waste discharge violations associated with site development and use for cannabis cultivation without applicable permits.

- Prioritize and pursue enforcement cases for individuals/entities conducting unauthorized dredge/fill activities in surface waters.
- Pursue timely enforcement on missed deadlines in existing enforcement orders.

Further, as noted above, the Executive Oversight Committee has encouraged prioritization of enforcement-related activities within the Cannabis Program. At this time, our top priorities are: 1) increasing program enrollment of potential legal cultivation sites, and 2) addressing adverse water quality and water supply impacts from illegal cultivation through enforcement. Consistent with the Executive Oversight Committee’s direction, staff may also conduct some enforcement activities on sites that are enrolled under the Cannabis General Order if egregious water quality or water rights violations are observed.

The Regional Water Board, in conjunction with the State Water Board Division of Water Rights and CDFW, annually identifies priority watersheds where enforcement on illegal sites will primarily be focused. The selection of priority watersheds is based on a variety of factors, including water quality impairments, flow impacts, sensitive species and habitats, and density of known unpermitted cultivation areas. Since active enforcement against illegal sites can occur in both permissive and banned counties, county permissibility does not tend to be a factor in priority watershed selection. Staff time spent on individual case management associated with enforcement activities in priority watersheds may spread across multiple FYs. Under the right circumstances, case management can include staff participating in coordinated, multi-agency efforts to secure grant funds for upgrading shared rural road networks. Such upgrades lead to

reduced surface erosion and sediment loss from those road networks, which are listed as major sediment sources in Total Maximum Daily Loads for many watersheds in the North Coast Region.

Enforcement on illegal sites generally involves a combination of agency planning and coordination, site inspections, and follow-through with progressive enforcement actions. Staff attend interagency enforcement-based inspections with local law enforcement, CDFW, DCC, and other agencies. These inspections occur within focused operations led by law enforcement and as part of the CEP. Since the logistics of these inspections are primarily organized by other agencies, staff does not know in advance how many inspections are planned each FY but does keep track of the number of enforcement-based inspections conducted to estimate expectations from year-to-year. Staff also review technical documents provided by others for potential enforcement (e.g. CDFW Lake and Streambed Alteration Agreements, other agency notices and inspection reports, county reports, etc.)

Based on the results of its inspections and technical reviews, staff initiates enforcement actions for those activities that threaten to adversely affect water quality and violate the Clean Water Act, the California Water Code, the Basin Plan, and the Cannabis Cultivation Policy and Cannabis General Order. Actions include: issuing directives to enroll, Notices of Violation, investigative orders, Cleanup and Abatement Orders (CAOs), or monetary penalties through the issuance of Administrative Civil Liability Complaints (ACLs), entering into settlement agreements, and coordinating with law enforcement agencies on criminal cases alleging environmental harm.

Discharges of hazardous materials and illegal grading in, dredge and fill of, and sediment discharges to watercourses and wetlands are examples of egregious violations that may result in immediate escalation to issuance of CAOs and ACLs. Since enforcement cases cannot be anticipated or accounted for in work planning efforts until discharges to the environment are discovered, this Work Plan only accounts for those enforcement cases that are currently under development and updates will be made on a quarterly basis to reflect the ongoing state of Cannabis Program enforcement. At the time of drafting this Work Plan, we have 6 sites under consideration for development of a CAO (see the milestones table, below) and we plan to issue two ACLs.

Considerations and Key Issues to Resolve:

- a. The Regional Water Board lacks adequate staff to participate in these activities at desired levels due to insufficient funding to support the statewide Cannabis Program.
- b. Office of Enforcement staff assisted with enforcement inspections in previous FYs and may provide some assistance during this FY. We expect Office of Enforcement staff to assist us with follow-up enforcement as appropriate for those sites inspected in previous FYs and to assist with the development of one ACL this FY.
- c. Staff is currently developing tools to track and report on the status of individual enforcement cases to ensure effective case prioritization consistent with regional

priorities, and to ensure timely issuance of enforcement actions. Once finalized, staff will need to be trained on the use of these tools.

- d. Staff are expected to issue inspection reports to dischargers within 30 days of inspection.

PY Allocation for FY 22/23: 2.35

| Milestones ¹ | Target Date |
|--|---------------|
| Issue 2 Administrative Civil Liability Complaints or issue Invitations to Enter into Settlement Discussions to dischargers for violations of the California Water Code and/or Clean Water Act. | December 2022 |
| Issue 6 Cleanup and Abatement Orders to dischargers whose properties staff has already inspected and has identified the need for remedial action to resolve water quality threats and impacts. | June 2023 |

Priority 1.c – Cannabis General Order Implementation

Summary: As of May 2022, there are approximately 3,323 active enrollments (3,153 WDRs enrollees and 170 waivers) under the Cannabis General Order in the North Coast Region. To put these number into context, there are approximately 6,371 active enrollments (4,473 WDRs enrollees and 1,898 waivers) statewide. Thus, enrollments within the North Coast Region account for approximately one half of all enrollments statewide, including more than two-thirds of all WDRs enrollments.

Order implementation includes responding to inquiries from enrollees, consultants, and members of the public; coordinating with the State Water Board Cannabis Fees Unit to issue annual invoices to enrollees and to respond to billing disputes; coordinating with the State Water Board Division of Water Quality to process requests for new enrollments and requests for modifications to existing enrollments under the Cannabis General Order; processing applications for Water Quality Certification and other waste discharge programs associated with cannabis; processing requests for termination of enrollment under the Cannabis General Order; reviewing and approving plans required to be submitted to the Regional Water Board by Cannabis General Order enrollees; conducting compliance inspections; preparing inspection reports and enforcement actions when appropriate; and associated tasks.

Considerations and Key Issues to Resolve:

¹ This table will be updated with additional milestones on a quarterly basis as staff conducts field investigations and prioritizes new enforcement cases.

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- a. Given the Executive Oversight Committee's direction to prioritize activities associated with enforcement, coupled with insufficient funding to support the statewide Cannabis Program, there is a lack of adequate staff to participate in the activities listed above at desired levels.
- b. Given the high number of Cannabis General Order enrollments in the North Coast Region, staff annually receive thousands of inquiries sent to the North Coast Cannabis general voicemail and email inboxes. Due to the high volume of such inquiries, we are forced to advise enrollees that it may take up to two weeks for staff to provide a response.
- c. There is currently a backlog of unapproved Erosion and Sediment Control Plans (ESCPs) submitted in accordance with Cannabis General Order requirements. Staff intends to approve the ESCPs, to request updates as needed, and to ensure that they are successfully implemented. All Disturbed Area Stabilization Plans (DASPs) received to date have been reviewed, most of them have been approved, and additional information has been requested for those deemed by staff to be incomplete.
- d. As of May 2022, only 67 of the 234 Moderate Risk enrollees and only 44 of the 115 High Risk enrollees that are required to submit ESCPs and DASPs, respectively, to the North Coast Regional Water Board have done so by deadlines established in the Cannabis General Order. Staff has contacted High Risk enrollees, requesting that they submit DASPs for review and approval. Staff will need to take similar steps this FY with Moderate Risk enrollees to submit ESCPs.
- e. Staff has thus far received 33 applications for Water Quality Certification during FY 21/22. Having made progress toward eliminating a backlog of applications received in prior years, the Regional Water Board Cannabis Program has issued 73 Water Quality Certifications to date in FY 21/22. Currently, staff has 30 applications for Water Quality Certification that are in various stages of processing and awaiting Regional Water Board approval. Staff has made significant progress in streamlining the process of preparing and issuing Water Quality Certifications. The streamlining process has provided the benefit of allowing limited staff to review and approve many applications, thus facilitating the completion of projects to implement the Cannabis Cultivation Policy. Going forward, staff will review and approve or deny new applications within 60 days of determining application completeness. However, with additional resources, staff could supplement the desk reviews it currently conducts with a greater number of site inspections, thus increasing the level of scrutiny applied to projects that could most affect water quality.
- f. The focus of staff resources for site inspections will be associated with Priority 1.b, enforcement of illegal cultivation sites and other sites with egregious water quality violations. Nonetheless, staff will need to conduct some inspections on enrolled sites, primarily sites identified with egregious water quality violations and other sites associated with Water Quality Certification applications and ESCP

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and DASP reviews. In addition, staff will respond to the highest priority complaints referred to us from the public and other agencies. Staff will prepare an inspection report for each inspection and the report will be transmitted to the discharger within 30 days of the inspection.

PY Allocation for FY 22/23: 2.25

| Milestones | Target Date |
|--|---------------|
| Publish an article in the North Coast Regional Water Board Executive Officer’s Report regarding environmental benefits resulting from Water Quality Certifications issued by Cannabis Program staff. | October 2022 |
| Review and provide comments on, or approve, 50% of backlogged submissions of Erosion and Sediment Control Plans (ESCPs). | December 2022 |
| Review and provide comments on, or approve, 100% of backlogged submissions of ESCPs. | May 2023 |
| Contact Moderate Risk enrollees who have not timely submitted required plans to require their immediate submission. | June 2023 |
| Review and provide comments on all new and all re-submitted applications for Water Quality Certification within 30 days of receipt. | Ongoing |
| Approve or deny all new applications for Water Quality Certification within 60 days of determining application completeness. | Ongoing |

Priority 1.d – Agency Coordination

Summary: A core obligation of implementing the Cannabis Program is coordination with local governments and other state agencies including CDFW and DCC to ensure consistent regulation of enrolled / licensed sites, and to prioritize increasing enrollments and taking enforcement actions. Regular interagency coordination meetings include standing meetings with individual counties, regional coordination meetings with CDFW permitting and law enforcement staff, and DCC Cannabis Program subgroup meetings including the licensing, data, executive, and enforcement subgroups. Staff also must coordinate with tribal governments throughout the region to process applications for cannabis cultivation within 600 feet of tribal lands. The Executive Oversight Committee established 3 statewide program coordinator positions to consolidate much of the statewide interagency program coordination responsibilities into the State Water Board’s Division of Water Rights, Division of Water Quality, and Office of Enforcement. Nonetheless, regional management still must coordinate with these Water Boards program coordinators and directly with other agency representatives on inspection prioritization, enforcement case management, and performance reporting, among other tasks. Additionally, regional management staff participate on the Executive Oversight

Committee and attend statewide Cannabis Program Roundtables and monthly meetings.

Considerations and Key Issues to Resolve: The Regional Water Board lacks adequate staff to participate in the following activities at desired levels due to insufficient funding to support the statewide Cannabis Program:

- a. Participating in the public review process (i.e., scoping, consultation, review, and comment) for proposed changes in the regulation of cultivation sites in counties with bans, caps on licenses, and other restrictions that could affect existing and future enrollments;
- b. Assessing water quality impacts of onstream pond development and other projects that get other agency permits, but fail to get the necessary permits from the Water Boards, and providing input to the Division of Water Rights and CDFW;
- c. Coordinating with local agencies regarding other activities associated with cannabis cultivation including wastewater discharges to onsite wastewater treatment systems and to land.
- d. CannaVision Project: The goal of this project is to develop technology to automatically identify cannabis cultivation sites using satellite imagery and computer vision machine learning tools. Staff also plans to utilize CannaVision to study changes in outdoor cultivation over time at varied spatial scales. Water Boards staff has already developed beta versions of the technology, but additional effort is needed to integrate the technology with Cannabis Program business processes. The next step in the project is the development of procedures and trainings for performing quality assurance and quality control checks of CannaVision data outputs using the Computer Vision Annotation Tool.

PY Allocation for FY 22/23: 0.65 (Management only, plus an additional 0.15 PY from the Planning and Stewardship Division to assist with CannaVision work)

Priority 1.e – Unplanned Work Activities

Summary: Unanticipated assignments and the need to react to projects and actions initiated by others are a reality for all regulatory programs. Given the exceptionally limited staff resources available for the Cannabis Program, most unplanned work activities cannot be accommodated this FY unless corresponding reductions are made to staff resources allocated to other priority activities. Such trade-offs will require careful assessment and case-specific determination by management.

Considerations and Key Issues to Resolve: N/A

PY Allocation for FY 22/23: 0.9

Priority 2.a – Water Quality Certification Statewide Coordination Project

Summary: Staff will continue to coordinate with the State Water Board Divisions of Water Quality and Water Rights on two elements of our Water Quality Certification work.

- a. The Division of Water Rights is in the process of developing, with Regional Water Board participation, statewide procedures for issuing approvals for projects within waters of the state under the Cannabis General Order. The intent of this project is to improve consistency, efficiency, and timeliness of Water Quality Certification issuance to ensure water quality improvements can be completed in a timely fashion, thus bringing enrollees into compliance with the Cannabis General Order. The team is developing a Notice of Intent (NOI) form, a template Notice of Applicability (NOA), a Frequently Asked Questions (FAQ) sheet, and other example documents to be used throughout the statewide Cannabis Program. These documents are being developed based on versions that Regional Water Board staff previously developed for use in the North Coast Region.
- b. The Division of Water Rights is developing a process to determine under which circumstances previously constructed onstream ponds may remain at cannabis cultivation sites. Regional Water Board staff will continue to coordinate with the Division of Water Rights as they issue the Water Quality Certifications for onstream ponds.

Considerations and Key Issues to Resolve: Internal agreement must be reached regarding how to best use available tools, how to develop processes to approve projects under the Cannabis General Order, and how to best streamline the approval process to protect limited staff resources while providing timely service to applicants.

PY Allocation for FY 22/23: 0.05 (Management only)

Priority 2.b – Cannabis General Order Compliance Assessment

Summary: Given the very limited staff resources available for compliance assessment, staff will prioritize review of annual monitoring data to maximize the efficiency of this task. The Regional Water Board does not currently have the capacity to routinely conduct other forms of compliance assessment, such as performing site inspections, and reviewing Site Management Plans, Nitrogen Management Plans, and other technical documents submitted by enrollees; this work will be prioritized on a case-specific basis.

Considerations and Key Issues to Resolve: N/A

PY Allocation for FY 22/23: 0.1 (includes 0.05 PY Management)

Priority 3.a – Low Priority Cannabis General Order Implementation Activities

Summary: Except in cases otherwise associated with activities specified under Priority 1.c above, the following are activities that would be completed with additional staffing resources:

- a. Issuing compliance schedules and enforcement orders to enrollees requesting deadline extensions for required site stabilization and erosion control work;
- b. Issuing individual WDRs to cannabis cultivators who request them in lieu of enrolling under the Cannabis General Order; and

- c. Reviewing and commenting on California Environmental Quality Act (CEQA) compliance documents and agency referrals for cannabis cultivation-related sites.

Considerations and Key Issues to Resolve: N/A

PY Allocation for FY 22/23: 0.0

Priority 3.b – Low Priority Cannabis General Order Compliance Assessment Activities

Summary: Staff's ideal approach for efficiently assessing the compliance of enrolled sites in the North Coast Region begins with reviewing annual monitoring data, followed by reviewing plans submitted by enrollees, then physically inspecting sites where monitoring data and plan information suggest that further investigation is warranted. Except in cases otherwise associated with activities specified under Priority 1.c above, the following are services, which would improve enrollee compliance and protect water quality, but generally cannot be provided due to the current number of funded positions:

- a. Reviewing and commenting on Site Management Plans (SMPs), which are required to be submitted by all enrollees under the Cannabis General Order, and Nitrogen Management Plans (NMPs), which are required to be submitted by all Tier 2 enrollees with a cannabis cultivation area greater than one acre.
- b. Conducting routine compliance inspections of enrolled sites, including pre-inspection file review, onsite inspection, report issuance, and following up with subsequent education, interpretation, and/or enforcement actions, as necessary.
- c. Issuing Notices of Violation for nonsubmittal of annual enrollment fees and/or annual monitoring reports and developing enforcement cases for enrollees violating this requirement multiple years in a row.

Considerations and Key Issues to Resolve: N/A

PY Allocation for FY 22/23: 0.0

Priority 3.d – Education and Outreach

Summary: Education and outreach are important components of program implementation. However, given the current number of staff positions, these activities are, by necessity, a low priority. Typically, education and outreach involve staff working 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.

Considerations and Key Issues to Resolve: Due to staffing limitations, the Regional Water Board cannot continue (as it has successfully done in the past) to educate the general public and regulated community (many of whom are located in rural areas across the North Coast Region, lack access to reliable internet services, and/or whose primary language is not English) regarding complex regulatory requirements, enrollment and termination processes, and best practices for compliance.

PY Allocation for FY 22/23: 0.0

3.3 Performance Targets for FY 22/23

There are currently no Performance Targets for the Cannabis Cultivation Waste Discharge Regulatory Program. The statewide Cannabis Program Roundtable has convened and begun discussions with program coordinators from the State Water Board Office of Enforcement, Division of Water Quality, and Division of Water Rights about the establishment of performance targets for this program statewide.

4.0 ENFORCEMENT PROGRAM

4.1 Core Activities and Projects by Priority

The primary responsibilities of the North Coast Region’s 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 22/23 Enforcement Program Core Activities and Projects by Priority

| Priority Level | Activity/Project | Category | Target Date |
|----------------|--|----------|-------------|
| 1 | Enforcement Staff Supervision and Program Management | Core | Ongoing |
| 1 | Review Enforcement Priorities and Update the Supplemental Environmental Project (SEP) List | Core | October |
| 1 | Violation Review and Prioritization, Case Development, and Discretionary Penalty Assessments | Core | Ongoing |
| 1 | Mandatory Minimum Penalty Assessments | Core | Ongoing |
| 1 | Develop a Cost Recovery Process for CAOs | Special | December |
| 1 | Officewide Complaint Response Coordination | Core | Ongoing |
| 1 | Fleet Vehicle Management | Core | Ongoing |
| 1 | Enforcement Inspections and Investigations | Core | Ongoing |
| 1 | Development and Management of Complex, Long-Term Enforcement Cases | Core | Ongoing |
| 2 | CEQA tracking and coordination | Special | Ongoing |

4.2 Core Activity and Project Descriptions

Activities and projects are listed below and identified by the priority (1, 2) and the letter (a, b, c, etc.) listed in Table 3 above. In this Work Plan, Priority 2 projects are those that may not get accomplished due to resource limitations. Cannabis enforcement resources are accounted for separately, above, in Section 3.2 of this Work Plan.

Priority 1.a – Enforcement Staff Supervision and Program Management

Summary: The primary responsibilities of the Division Supervisor and Unit Seniors (collectively, Management) are staff supervision, management of the Cannabis

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Program, and coordination of office-wide enforcement activities (i.e. management of the Enforcement Program). Therefore, Management staff spend a substantial portion of their time training, coaching, and mentoring staff, developing/updating individual staff work plans, and appraising performance. If opportunities arise to fill vacant positions, hiring and onboarding new staff becomes Management’s highest priority. Management time accounted for here includes meeting with staff to direct project work, reviewing and approving staff work products, tracking progress on tasks and projects, and program planning, among other tasks.

Other tasks performed by the Enforcement Unit supervisor with support from the Division supervisor include those associated with serving as the Enforcement Coordinator for the region, such as: participating and coordinating with staff from other Regional Water Boards and the State Water Board Office of Enforcement in statewide Enforcement Program activities (e.g. developing and reviewing enforcement policy and guidance, and participating in statewide roundtables and trainings); developing and assisting with implementation of regional enforcement templates and processes; coordinating enforcement actions throughout the office with staff from other programs; tracking status of enforcement cases from all programs in the office; hosting and conducting periodic (i.e. quarterly) officewide enforcement prioritization meetings with the Office of Enforcement and regional management; updating the officewide enforcement priorities annually; maintaining the regionwide Supplemental Environmental Project (SEP) list; regular analysis of Enforcement Target data and reporting of performance to the State Water Board; and maintaining the office vehicle fleet.

Considerations and Key Issues to Resolve: With the recent hire of a Senior Environmental Scientist as the supervisor of the Enforcement Unit and the officewide Enforcement Coordinator, a top priority for the Division Supervisor will be to onboard this new staff member, update this Work Plan, as necessary, and collaboratively evaluate internal enforcement process to identify opportunities to improve efficiency and effectiveness.

PY Allocation for FY 22/23: 1.0 (management only)

| Milestones | Target Date |
|---|----------------|
| Reassess staff duties to implement this Work Plan, identify staff to perform specific enforcement duties, update staff duty statements as necessary, and develop individual staff work plans. | July 2022 |
| Review Enforcement Target data for FY 21/22 and update annual performance report. | September 2022 |
| Conduct performance appraisals for all staff. | May 2023 |

Priority 1.b – Review Enforcement Priorities and Update the Supplemental Environmental Project (SEP) List

Summary: Annually, staff are required to bring regional enforcement priorities to the Regional Water Board and public to solicit input. Updates to the enforcement priorities are then incorporated into the case prioritization process that staff use to determine which enforcement cases to pursue. Additionally, the current list of SEPs has not been updated for a few years and warrants reevaluation. Staff has a separate list of potential and ongoing restoration projects that needs to be vetted for potential inclusion on the SEP list for consideration in settlement of enforcement cases.

PY Allocation for FY 22/23: 0.10

Considerations and Key Issues to Resolve: N/A

| Milestones | Target Date |
|---|--------------------|
| Bring regional enforcement priorities to the Regional Water Board and public for input and updates. | October 2022 |
| Review new SEP proposals and other restoration projects to update the regionwide SEP list. | October 2022 |

Priority 1.c – Violation Review and Prioritization, Case Development, and Discretionary Penalty Assessments

Summary: The development and prioritization of enforcement cases is a core function of the Enforcement Unit. We review and prioritize cases by meeting regularly (quarterly) with regional management and the Office of Enforcement.

Considerations and Key Issues to Resolve: During the 2021 calendar year there are currently 5 Class A priority violations identified in CIWQS or SMARTS that do not yet have associated formal enforcement actions or investigative orders. Staff will need to review all 5 of these violations to determine if any of them have been incorrectly classified and, if so, reclassify them. Staff should review other violations that occurred in 2021 to confirm that none of the other Class B violations should be reclassified as Class A. Additionally, staff is currently in the process of advanced progressive enforcement, including settlement negotiations, with 9 dischargers and the development of various other cases in the Industrial and Construction Storm Water, Winery, Nonpoint Source, Cannabis, and Water Quality Certification programs.

PY Allocation for FY 22/23: 0.70

| Milestones | Target Date |
|--|---|
| <p>Review the following list of violations that staff has classified as Class A priority violations, which do not yet have associated formal enforcement or investigative orders, for accuracy and validity and reclassify any that are deemed misclassified.</p> <p>CIWQS Violation IDs: 1092293, S880721, S881391, 1096381, 1102937</p> | <p>September 2022</p> |
| <p>Issue formal enforcement actions for all validated Class A priority violations by the dates in the following list:</p> <ul style="list-style-type: none"> - If confirmed to be a Class A violation, CIWQS Violation ID No. 1092293 the deadline for issuance of a formal enforcement action would be November 30, 2022, to meet Performance Target No. 1. - If confirmed to be a Class A violation, CIWQS Violation ID No. 1096381 the deadline for issuance of a formal enforcement action would be February 28, 2023, to meet Performance Target No. 1. - If confirmed to be a Class A violation, CIWQS Violation ID No. S880721 the deadline for issuance of a formal enforcement action would be March 31, 2023, to meet Performance Target No. 1. - If confirmed to be a Class A violation, CIWQS Violation ID No. S881391 the deadline for issuance of a formal enforcement action would be March 31, 2023, to meet Performance Target No. 1. - If confirmed to be a Class A violation, CIWQS Violation ID No. 1102937 the deadline for issuance of a formal enforcement action would be May 30, 2023, to meet Performance Target No. 1. | <p>Various dates (see listed items)</p> |

Priority 1.d – Mandatory Minimum Penalty Assessments

Summary: The California 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 5 or more violations resulting in \$15,000 or more in penalties. As noted below, this core activity is associated with a long-standing, statewide performance target.

Considerations and Key Issues to Resolve: Much progress was made last FY towards the achievement of Performance Target 2² by assessing mandatory minimum penalties, but it was not completely met due, in part, to the need to collaborate with small, disadvantaged communities on Compliance Projects and an impact on staff resources from the retirement of the previous Enforcement Unit Senior in December 2021. This FY, the Enforcement Unit is fully staffed and anticipates elimination of all backlogged MMP cases and achievement of this performance target. According to CIWQS, as of April 2022, there are currently 10 facilities with at least 5 violations subject to MMPs that need to get resolved during this FY; staff is already in settlement negotiations with 9 of those 10 facilities and with an additional 3 facilities that have less than 5 MMP violations. The Regional Water Board’s ability to achieve Performance Target 2, and the milestones in the table below, depends, to a large degree, on the assistance of staff from the Point Source and Ground Water Protection Division; according to Activity 1.c of Section 3.2 of that Division Work Plan, an additional 0.3 PY staff resources are allocated to assist the Enforcement Unit in this activity for this FY.

PY Allocation for FY 22/23: 0.5 (plus an additional 0.3 PY from the Point Source & Groundwater Protection Division)

| Milestones | Target Date |
|---|----------------|
| Finalize imposition of administrative civil liabilities for violations of the California Water Code and federal Clean Water Act associated with the following wastewater treatment facilities: <ul style="list-style-type: none"> - City of Arcata - City of Eureka - City of Ukiah - City of Ferndale - Town of Loleta - Town of Graton - City of Crescent City - California Redwood Company, Korbelt Sawmill - City of Rio Dell - Humboldt State University Telonicher Marine Laboratory - Scotia Community Services District and Humboldt Redwood Company | September 2022 |

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

Priority 1.e – Develop a Cost Recovery Process for CAOs

Summary: The Water Code allows for the recovery of staff costs in the implementation of CAOs, but staff does not yet have a process established to ensure their recovery. Staff recognizes this operational gap and has established a milestone, below, to address it.

Considerations and Key Issues to Resolve: This will involve the development of a process very similar to the cost recovery process already in place for hazardous waste sites but will require the adaptation of existing templates for this new process. This will also involve coordination with the State Water Board’s Department of Administrative Services to set-up accounts and processes to issue invoices and collect payments submitted in response to those invoices.

PY Allocation for FY 22/23: 0.05

| Milestones | Target Date |
|--|---------------|
| Develop a cost recovery process for CAOs | December 2022 |

Priority 1.f – Officewide Complaint Response Coordination

Summary: CalEPA is committed to responding to all environmental complaints received by the agency. The Water Boards receive from CalEPA approximately 5-10 complaints per week that need to be tracked, investigated, and responded to in a timely manner by the Regional Water Boards assigned to them.

Considerations and Key Issues to Resolve: Licensing for the database that supports complaint tracking, investigation, and response activities is limited. Our enforcement staff have one license that must be shared with other staff in the region who must access the database to complete their complaint response work. Additionally, the office has a new set of procedures for staff to efficiently track, assign, investigate and respond to complaints, but these procedures have not yet been implemented by all staff in the office. This fiscal year, one enforcement staff will be the lead Complaints Coordinator and will work with the rest of the office to train staff on the new procedures and ensure consistent implementation.

PY Allocation for FY 22/23: 0.10

Priority 1.g – Fleet Vehicle Management

Summary: Management of the regional vehicle fleet is currently conducted by a single technical staff person in the Enforcement Unit who has been designated by management as the regional Fleet Liaison. Historically, the fleet coordinator role was split among three staff: an AGPA who collected and maintained a file with all fuel receipts and assisted purchasing vehicle supplies; a technical staff who filed monthly reports with the Division of Administrative Services (DAS) and Department of General Services (DGS) and coordinated the irregular service (SMOG inspections, repair of mechanical break downs and repairs in response to manufacture recalls); and a

member of the management team who oversaw the regular vehicle service (with targeted service every 4k miles for each of the fleet's 14 vehicles) and served as the point of contact for staff, DAS, DGS and the management team for all things vehicle related.

Considerations and Key Issues to Resolve: Vehicle usage data indicates that the Region 1 fleet will likely increase its use from a low of 110,000 miles per year during the pandemic to more than 200,000 miles in the 22/23 fiscal year. In addition to the increased usage, several vehicles are ageing to the point where they will require smaller intervals of maintenance and upkeep. During the 21/22 fiscal year, the fleet encountered a vehicle shortage on several occasions. The fleet coordinator will minimize vehicle down time by promptly coordinating repairs of all out-of-service vehicles.

PY Allocation for FY 22/23: 0.20

Priority 1.h – Enforcement Inspections and Investigations

Summary: Conducting timely enforcement inspections and investigations is a core function of Enforcement Program staff. This work sets the stage for the development of quality enforcement cases and supports 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 dischargers within 30 days of the inspection date.

Considerations and Key Issues to Resolve: We will screen sites and cases and attempt to direct our limited resources to those sites that pose significant threats to water quality and where our participation will provide the most benefit to water resource and beneficial use protection. The PY allocation for this priority reflects the many high priority activities performed by the Enforcement Unit and the very limited staff resources available. The Enforcement Unit relies upon inspectors from other programs throughout the office to assist with enforcement inspections and investigations.

PY Allocation for FY 22/23: 0.10

Priority 1.i – 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. As discussed above, one of our regional enforcement priorities is pursuing timely enforcement on missed deadlines in existing enforcement orders.

Considerations and Key Issues to Resolve: Enforcement Unit staff has drafted an updated template to use for the development of Cleanup and Abatement Orders. Staff anticipate that this template will improve processing times for issuing Cleanup and Abatement Orders and will improve the clarity for responsible parties through improved

document organization. As a result, staff anticipate being able to require site cleanup more effectively and efficiently when deemed necessary.

PY Allocation for FY 22/23: 0.40

| Milestones | Target Date |
|---|-------------|
| Publish an article in the North Coast Regional Water Board Executive Officer’s Report featuring restoration success stories resulting from orders issued and actions taken by Enforcement Unit staff. | April 2023 |

Priority 2.a – CEQA Tracking and Coordination

Summary: Providing a service of interest and benefit to the office as a whole, Enforcement Unit staff receive, track, and inform all staff weekly of new California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documents available for comment for projects in the North Coast Region. While this task is not enforcement-related, and technically constitutes “other duties as required,” it allows enforcement staff to be aware of new projects and activities throughout the region, sometimes with a nexus to enforcement cases underway, and sometimes alerting staff to potential concepts for Supplemental Environmental Projects.

Considerations and Key Issues to Resolve: N/A

PY Allocation for FY 22/23: 0.10

4.3 Performance Targets for FY 22/23

Target 1: 80% of Class A priority violations will Result in Formal Enforcement or an Investigative Order Pursuant to California 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.