

# **Cannabis & Enforcement Division Fiscal Year 2023-2024 Workplan**

## Programs:

Cannabis Cultivation Waste Discharge Regulatory  
Program  
Enforcement Program

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# 1.0 Division Introduction

The Cannabis & Enforcement Division includes three units.

The Enforcement Unit implements the regionwide Enforcement Program and provides specialized enforcement and compliance assistance to all programs throughout the office. Dedicated enforcement staff ensure that water quality violations are prioritized for progressive enforcement actions, including issuance of Cleanup and Abatement Orders (CAOs) and monetary penalties that are firm, fair, and consistent with the State Water Resources Control Board (State Water Board) Water Quality Enforcement Policy (Enforcement Policy).

The Northern Cannabis Regulatory Unit, which is stationed in Eureka at the Regional Water Board's northern field office, and the Southern Cannabis Regulatory Unit, which is stationed in Santa Rosa at the Regional Water Board's main office, implement the Cannabis Cultivation Waste Discharge Regulatory Program (a.k.a. Cannabis Program). Staff in all three units in the Division participate in the enforcement of violations associated with cannabis cultivation.

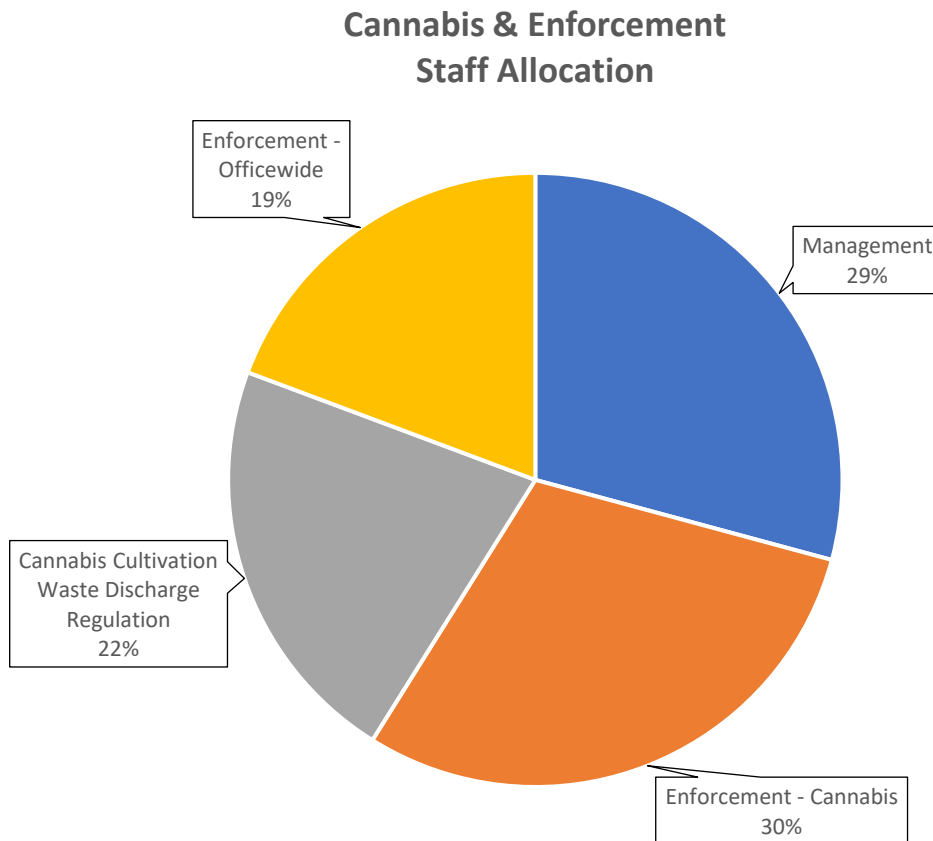
In addition to the primary programs named above, staff in this Division also dedicate time to other office-wide priorities, including fleet vehicle management, and office-wide initiatives, including the development and implementation of a Racial Equity Action Plan, development of a regulatory program for discharges of waste from vineyards, development of climate change adaptation and resilience initiatives, and implementation of engagement committee initiatives.

## 2.0 Division Resources

### 2.1 Staffing

The Division consists of two units. Staffing for the Division is comprised of 13 professionals within the following classifications: Environmental Scientist (ES), Water Resource Control Engineer (WRCE), Engineering Geologist (EGs), Scientific Aid, Graduate Student Assistant, and supervisory levels within these classifications. There is one dedicated AGPA for the Cannabis Program in the Administration Unit. Consistent with all divisions in the office, the Cannabis & Enforcement Division also receives support from other staff in the Administration Unit.

The pie chart below depicts the distribution of staff resources by program, and the subsequent sections of this workplan describe the work staff perform in each program. The “Introduction on Office-Wide Initiatives” section preceding these workplans generally describes the work of supervisors and other elements of work that are common to staff throughout the organization.



## 3.0 Cannabis Cultivation Waste Discharge Regulatory Program

Cannabis cultivation 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. Potential waste discharges from cultivation sites include sediment, irrigation runoff, fertilizers, pesticides/herbicides, petroleum, cultivation-related organic waste, refuse, and human waste. Construction and use of access roads to cannabis cultivation sites have resulted in significant erosion and sediment discharges to receiving waterbodies.

The State Water Board, in consultation with California Department of Fish and Wildlife (CDFW), California Department of Food and Agriculture (CDFA)<sup>1</sup>, 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 from the potential impacts of cannabis cultivation statewide. 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 covers the entire state with priority regions established for areas with streams bearing anadromous fish habitat.

The Cannabis Cultivation Policy establishes principles and guidelines to ensure that water diversions and discharges of waste associated with cannabis cultivation do not negatively affect water quality, aquatic habitat, riparian habitat, wetlands and springs. It prescribes protective criteria that limit the season of diversion, establish minimum flows at specific flow gages, and establishes requirements related to water diversions and waste discharges. The Policy requirements are implemented through the Cannabis General Order, the Cannabis General Water Quality Certification, and the Cannabis Small Irrigation Use Registration (SIUR). Compliance with the Policy is mandatory and enforcement actions may be taken against cultivators who continue to grow cannabis in violation of state law and against those who enroll in regulatory programs but fail to fully comply with Policy requirements. The Policy outlines a variety of enforcement tools and actions to correct non-compliance.

The Cannabis Program staff's primary duties include implementation and enforcement of the Cannabis Cultivation Policy and Cannabis General Order, the Water Quality

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<sup>1</sup> Regulatory activities originally conducted under CDFA's CalCannabis Program are now under the purview of the Department of Cannabis Control (DCC).

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 CDFR), tribes, and local agencies.
- 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.
- Conducting education and outreach to the public, media, and industry and watershed groups.

### 3.1 Activities and Projects by Priority

Based on guidance and direction from the State Water Board’s Cannabis Executive Oversight Committee – and similar to recent years past – this year’s Work Plan continues to prioritize enforcement-related activities for the Cannabis Program (typically focused on illegal cultivation operations), as opposed to compliance-related activities (typically focused on permitted operations). Given limited Cannabis Program staff resources, this prioritization means less staff time is available to provide services to Cannabis General Order enrollees. The primary responsibilities of program staff are categorized based on Priority Levels listed in Table 3.1. Detailed descriptions of all specified activities and projects follow in Section 3.2.

**Table 3.1 – FY 23/24 Program Activities and Projects by Priority**

<b>Priority Level</b>	<b>Activity/Project</b>	<b>Target Completion Date</b>
1	a. Cannabis Program Enforcement	Ongoing
1	b. Cannabis General Order Implementation	Ongoing
1	c. Agency Coordination	Ongoing
2	d. Fleet Vehicle Management Support	Ongoing
2	e. CannaVision Project Support	Ongoing
2	f. Cannabis General Order Compliance Assessment	Ongoing

## 3.2 Activity and Project Descriptions

Cannabis Program activities and projects are described below, identified first by the Priority Level (1, 2) and the letter (a, b, c, etc.) listed in Table 3.1.

### Priority 1.a – Cannabis Program Enforcement

**Summary:** As noted in Section 4.0, 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 mentioned above, the Cannabis Executive Oversight Committee has encouraged prioritization of enforcement-related activities statewide. As such, the Cannabis Program's top priority is addressing adverse water quality and water supply impacts from illegal cultivation through enforcement. Consistent with the Committee's direction, staff may also conduct 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 be primarily 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 Cannabis Enforcement Program. 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 transmittals, 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, NOVs, investigative orders, or CAOs; seeking monetary penalties through the issuance of ACL Complaints; 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 ACL Complaints. Since enforcement cases cannot be anticipated or accounted for in work planning efforts until discharges 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 ongoing Cannabis Program enforcement efforts. At the time of drafting this Work Plan, we have four sites under consideration for development of a CAO (see the milestones table below) and we anticipate issuing two ACL Complaints.

**Key Issues and Considerations:**

- a. The Regional Water Board lacks adequate staff to participate in the above-mentioned cannabis enforcement 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 Complaint and/or CAO this FY.
- c. Staff are currently implementing new 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.

**PY Allocation for FY 23/24: 2.6**



Milestones	Target Date
Issue two ACL Complaints to dischargers for violations of the California Water Code and/or Clean Water Act.	Jun-24
Issue four CAOs to dischargers whose properties staff has already inspected and has identified the need for remedial action to resolve water quality threats and impacts.	Jun-24

**Priority 1.b – Cannabis General Order Implementation**

**Summary:** FY 22/23 was the first year since the Cannabis Program began in 2015 that permit enrollments in the North Coast Region decreased over the previous year. Specifically, Cannabis General Order enrollments decreased over the past FY by about 12.4%, reflecting persistently difficult market and regulatory conditions experienced by many small farmers. Nevertheless, as of May 2023, there are approximately 2,910 active enrollments (2,746 WDRs enrollees and 164 waivers) under the Cannabis General Order in the North Coast Region. To put these number into context, there are approximately 5,880 active enrollments (3,886 WDRs enrollees and 1,994 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.

Regional Water Board staff perform the following tasks to ensure implementation of Cannabis Cultivation Policy and General Order requirements:

- Respond to inquiries from enrollees, consultants, and members of the public;
- Coordinate with the State Water Board Cannabis Fees Unit to issue annual invoices to enrollees and to respond to billing disputes;
- Coordinate 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;
- Process applications for Water Quality Certification and other waste discharge programs associated with cannabis operations;
- Review and approve plans required to be submitted to the Regional Water Board by Cannabis General Order enrollees;
- Process requests for termination of enrollment under the Cannabis General Order;
- Conduct compliance inspections; and
- Prepare inspection reports and enforcement actions when appropriate.

**Key Issues and Considerations:**

- 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 above-listed activities at desired levels.
- b. Given the relatively 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. Staff has approved all complete Erosion and Sediment Control Plans (ESCPs) and Disturbed Area Stabilization Plans (DASPs) that have been submitted to date by Cannabis General Order enrollees. As of May 2023, only 68 of the 258 Moderate Risk enrollees, and only 48 of the 139 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 and Moderate Risk enrollees, requesting that they submit DASPs and ESCPs for review and approval, but the majority of the required plans are still outstanding. Staff will begin issuing NOVs for missing plans as time and resources allow.
- d. Staff has thus far received 13 applications for Water Quality Certification during FY 22/23. Having eliminated a backlog of applications received in prior years, the Regional Water Board Cannabis Program has issued 19 Water Quality Certifications to date in FY 22/23. Currently, staff has 14 applications for Water Quality Certification that are in various stages of processing and awaiting Regional Water Board approval. Staff has significantly streamlined the process of preparing and issuing Water Quality Certifications by standardizing protocols and primarily relying on desktop reviews. The streamlining process has provided the benefit of allowing limited staff to review and approve applications, thus facilitating the completion of projects to implement the Cannabis Cultivation Policy.
- e. The focus of staff resources for site inspections will be associated with Priority 1.a, 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 and DASP reviews. In addition, staff will respond to the highest priority complaints referred to us from the public and other agencies.

**PY Allocation for FY 23/24: 2.05**

Milestones	Target Date
Publish an article in the North Coast Regional Water Board Executive Officer's Report with a Cannabis Program update.	Dec-23

**Priority 1.c – 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 regularly participate in meetings of the Cannabis Executive Oversight Committee and attend statewide Cannabis Program Roundtable and related monthly meetings.

**Key Issues and Considerations:** The Regional Water Board lacks sufficient staffing 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 providing input to the Division of Water Rights and CDFW to support their efforts under the Cannabis General Order's onstream pond determination process;
- c. Coordinating with local agencies regarding other activities associated with cannabis cultivation including waste discharges to onsite wastewater treatment systems and to land.

**PY Allocation for FY 23/24:** 0.55 (Management only)

## **Priority 2.d – Fleet Vehicle Management Support**

**Summary:** This task includes collecting all fuel and vehicle-related receipts; assisting with purchasing vehicle supplies; filing monthly reports with the Division of Administrative Services (DAS) and Department of General Services (DGS); coordinating and managing irregular services (smog checks, mechanical break-down repairs, and repairs in response to manufacturer recalls); managing regular vehicle services (with targeted service every 4k miles for each of the fleet's 14 vehicles), and coordinating with staff, DAS, DGS and the management team for all vehicle-related matters.

**Key Issues and Considerations:** During the previous FY, management of the regional vehicle fleet was performed by a single Cannabis Program staff person in the Enforcement Unit who had been designated by management as the regional Fleet Coordinator. In FY 23/24, fleet vehicle management responsibilities will be redistributed amongst staff in multiple programs and the regional Fleet Coordinator role will be transferred to an AGPA within the Administration Unit. Regional staff from all programs will assume responsibility for stewarding vehicles as needed for maintenance and cleaning. Meanwhile, Cannabis Program staff in the Enforcement Unit staff will support this task by training the AGPA on the procedures and responsibilities of the Fleet Coordinator in order to complete the transfer of that role by the time the FY ends.

**PY Allocation for FY 23/24:** 0.1

## **Priority 2.e – CannaVision Project Support**

**Summary:** The goal of the statewide CannaVision project is to utilize and improve technology to automatically identify cannabis cultivation sites using satellite imagery and computer vision machine learning tools. Additionally, staff plans to utilize CannaVision model outputs to study changes in outdoor cultivation over time at varied spatial scales.

### **Key Issues and Considerations:**

- a. 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.
- b. The next step in the project is the finalization of procedures and trainings for performing quality assurance and quality control (QA/QC) checks of CannaVision model outputs using the Computer Vision Annotation Tool and aligning Water Boards QA/QC and annotation procedures with those of CDFW.

**PY Allocation for FY 23/24:** 0.25 (includes 0.1 PY Management, plus an additional 0.15 PY from the Planning and Stewardship Division)

## **Priority 2.f – Cannabis General Order Compliance Assessment**

**Summary:** Given the very limited staff resources available for compliance assessment and assistance, 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. Such work will continue to be prioritized on a case-specific basis.

**PY Allocation for FY 23/24:** 0.1 (includes 0.05 PY Management)

### **3.3 Performance Targets**

There are currently no Performance Targets for the Cannabis Cultivation Waste Discharge Regulatory Program. However, 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. Meanwhile, the North Coast Region's Cannabis Program has established these performance goals:

- Issue four (4) formal enforcement actions to illegal cannabis cultivation sites;
- Conduct 40 inspections of illegal cannabis cultivation sites;
- Prepare and transmit all inspection reports within 30 days of inspection;
- Review and provide comments on, or approve, all submitted Disturbed Area Stabilization Plans (DASPs) and Erosion and Sediment Control Plans (ESCPs) within 30 days of receipt;
- Review and provide comments on all new and re-submitted applications for Water Quality Certification within 30 days of receipt;
- Approve or deny Water Quality Certification applications within 60 days of receiving a complete application;
- Process 30 new enrollments under the Cannabis Cultivation General Order; and
- Conduct one (1) outreach event to train and inform other agency staff and/or the public on cannabis-related information including, but not limited to, the Cannabis Cultivation Policy, Cannabis General Order, and Cannabis SIUR.

## 4.0 Enforcement Program

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 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 correct violations of the federal Clean Water Act, the California Water Code and the Basin Plan. The Regional Water Board has the authority to take enforcement actions, ranging from issuing Notices of Violation (NOV) to issuing CAOs, or imposing monetary penalties by issuing Administrative Civil Liability (ACL) Orders against persons who violate the regulatory requirements of the Clean Water Act, California Water Code, and the Basin Plan.

In October 2022, 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.
- Pursue timely enforcement on missed deadlines in existing enforcement orders.
- Prioritize and pursue regulatory oversight and enforcement for violations of National Pollutant Discharge Elimination System (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, below, the Regional Water Board will consider potential changes to these enforcement priorities in August 2023.

The Regional Water Board, with its staff, pursues enforcement of violations identified through complaints, routine compliance assessments of permitted sites, and warrant and consent inspections of unpermitted sites. Enforcement of violations is generally conducted in collaboration with other local, state and federal agencies. For instance, one of the Cannabis Program’s primary responsibilities is to pursue enforcement of violations associated with cannabis cultivation activities, in collaboration with CDFW’s Watershed Enforcement Team and DCC’s cannabis program. The collaboration of enforcement actions between these agencies is collectively referred to as the statewide Cannabis Enforcement Program. The Regional Water Board’s Enforcement Program staff also supports and participates in the 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.

## 4.1 Activities and Projects by Priority

The primary responsibilities of the North Coast Region’s dedicated enforcement staff are categorized based on Priority Levels listed in Table 4.1. Detailed descriptions of all specified activities and projects follow in Section 4.2.

**Table 4.1 – Fiscal Year 23/24 Program Activities and Projects by Priority**

<b>Priority Level</b>	<b>Activity/Project</b>	<b>Target Completion Date</b>
1	a. Review Enforcement Priorities at Regional Water Board Meeting	Aug-23
1	b. Violation Review and Prioritization, Case Development, and Discretionary Penalty Assessments	Ongoing
1	c. Mandatory Minimum Penalty Assessments	Ongoing
1	d. Coordinate Officewide Complaint Responses	Ongoing
1	e. Enforcement Inspections and Investigations	Ongoing
1	f. Development and Management of Complex, Long-Term Enforcement Cases	Ongoing

Priority Level	Activity/Project	Target Completion Date
1	g. Executive Officer Article Enforcement Reports for each of the August, October, December, February, April, and June Board Meetings.	Jul-23, Sep-23, Nov-23, Jan-24, Mar-24, May-24
2	h. Develop a Cost Recovery Process for CAOs	Dec-23

## 4.2 Activity and Project Descriptions

Enforcement Program activities and projects are described below, identified first by the Priority Level (1, 2) and the letter (a, b, c, etc.) listed in Table 4.1. Cannabis enforcement resources are accounted for separately in Section 3.2 of this Work Plan.

### Priority 1.a – Review Enforcement Priorities at Regional Water Board Meeting

**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.

**PY Allocation for FY 23/24:** 0.15 (Includes 0.05 PY Management)

Milestones	Target Date
Bring regional enforcement priorities to the Regional Water Board and public for input and updates.	Aug-23

### Priority 1.b – 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. Unit staff review and prioritize cases by meeting regularly (quarterly, at a minimum) with executive management and the Office of Enforcement.

**Key Issues and Considerations:** During the 2022 calendar year there are currently five places or facilities with Class A<sup>2</sup> priority violations identified in [California Integrated Water Quality Systems \(CIWQS\)](https://www.waterboards.ca.gov/ciwqs/) (<https://www.waterboards.ca.gov/ciwqs/>) or [Stormwater Multiple Application and Report Tracking System \(SMARTS\)](https://www.waterboards.ca.gov/water_issues/programs/stormwater/smarts/) ([https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/smarts/](https://www.waterboards.ca.gov/water_issues/programs/stormwater/smarts/)) with a total of 42 violations. There are currently three active enforcement actions addressing

<sup>2</sup> Class A priority violations are those violations that potentially pose an immediate and substantial threat to beneficial uses and/or that have the potential to individually or cumulatively cause significant detrimental impacts to human health or the environment.



23 of the 42 violations, while the other 19 violations are associated with two facilities that need to be addressed this FY. Enforcement Unit staff will continue to coordinate with regulatory program staff to determine if any additional violations from 2022 and 2023 will be identified as Class A.

In addition to the Class A priority violations from 2022, staff is currently in settlement negotiations with 10 dischargers and is preparing various enforcement actions associated with approximately 170 cases throughout the region to address violations associated with the following programs:

- NPDES Wastewater (Individual Wastewater Facility Orders)
- NPDES Industrial and Construction Storm Water (Statewide General Orders and Investigative Orders)
- Discharge to Land (Regional Wine, Beverage, and Food Processor Order, Onsite Wastewater Treatment System Policy, and CAOs)
- Nonpoint Source and Forestry (401 Certifications, Categorical Waiver for Timber Harvest on Non-Federal Lands, and CAOs)
- Cannabis (Illegal sites, CAOs, and Investigative Orders)
- Cleanups (Investigative Orders and CAOs)

**PY Allocation for FY 23/24:** 0.65 (Includes 0.05 PY Management)

Milestones	Target Date
Review violations in CIWQS that staff identified as Class A priority violations, for accuracy and validity and reclassify any that are deemed misclassified.	Quarterly (Oct-23, Jan-24, Apr-24, Jul-24)
<p>To meet Performance Target No. 1 staff must issue formal enforcement actions for 80% of all validated Class A priority violations by the dates listed below for the following Places/Facilities:</p> <p>A. Rio Dell Wastewater Treatment Facility. Deadline for formal enforcement action is <b>May 16, 2023</b>. 34 effluent violations from 11/16/21 to 02/17/23.*</p> <p>B. Fox Meadows Emergency Notice</p> <ol style="list-style-type: none"> <li>1. CIWQS Violation ID No. 1101609. Deadline for formal enforcement action is <b>July 25, 2023*</b></li> <li>2. CIWQS Violation ID No. 1109499. Deadline for formal enforcement action is <b>April 14, 2024*</b></li> </ol>	Various dates (see listed items)

Milestones	Target Date
<p>C. Scotia Sawmill &amp; Cogeneration Plant. CIWQS Violation ID. S88482. Deadline for formal enforcement action is <b>November 9, 2023</b>.</p> <p>D. Arcata Wastewater Treatment Facility. Staff has already complied with an August 28, 2023 deadline to issue a formal enforcement action by issuing an ACLC addressing 24 effluent violations from 2/28/22 to 11/30/22. Following the issuance of the ACLC, the facility has accrued three (3) additional violations for which there is a deadline of <b>April 5, 2024</b> to issue another formal action.*</p> <p>E. City of Eureka Elk River WWTP. Deadline for formal enforcement action is <b>May 30, 2024</b>. One effluent violation on 11/30/22.</p>	

\*Cases where formal enforcement actions have already been issued.

**Priority 1.c – Mandatory Minimum Penalty Assessments**

**Summary:** The California Water Code mandates the assessment of mandatory minimum penalties (MMPs) for certain violations of effluent limitations in NPDES permits. The Water Boards do not have discretion in assessing MMPs and must initiate enforcement against all entities that accrue a violation. However, California Water Code section 13385, subdivision (k), provides an alternative to assessing MMPs against Publicly Owned Treatment Works (POTWs) that serve small communities. Under this alternative, the Regional Water Boards may allow the POTW to spend an amount equivalent to the MMP toward a compliance project that is designed to correct the violation. As discussed in the Enforcement Policy, the Water Boards should issue MMPs within eighteen months of the time that the violations qualify as MMP violations. This 18-month timeframe has become the Enforcement Programs Performance Target, requiring the Water Boards to resolve 80 percent of all MMP violations through formal enforcement.

The Enforcement Unit continues to collaborate with NPDES Wastewater Program staff to prioritize and address the outstanding and historical violations requiring MMPs. The MMP Backlog Initiative began in May 2021 with 18 facilities having outstanding violations. At this time 17 of the 18 facilities with MMPs have been resolved through formal enforcement. The remaining facility, Loleta Community Services District Wastewater Treatment Facility, is set to gain financial assistance from the State Water Board and begin plant upgrades in 2024 to improve wastewater treatment and prevent future noncompliance. While timely assessing fines for MMP violations is a priority, so is identifying and implementing Compliance Projects (CPs) or Supplemental Environmental Projects (SEPs) in lieu of fines. Such projects implement our regional

priority of supporting Disadvantaged Communities (DACs) in their efforts to meet water quality standards by upgrading degraded infrastructure. For the past several years the Regional Water Board has supported DACs in seeking and securing funding to improve aging infrastructure in the North Coast Region.

**Key Issues and Considerations:** The Enforcement Unit is fully staffed and has eliminated the backlogged MMP cases and achieved the performance target for FY 22/23<sup>3</sup>. According to CIWQS, as of April 2023, there are currently seven (7) facilities with violations subject to MMPs that need to get resolved during this FY. Staff is already in settlement negotiations with five (5) of those seven facilities. 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 Groundwater Protection Division.

**PY Allocation for FY 23/24:** 0.4 (Includes 0.05 PY Management, and does not account for additional support from the Point Source & Groundwater Protection Division)

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<sup>3</sup> Enforcement action to impose MMPs in all cases within 18 months from the date of violation. (80% of Facilities)

Milestones	Target Date
<p>Finalize imposition of ACLs for violations of the California Water Code and federal Clean Water Act associated with the following wastewater treatment facilities:</p> <ol style="list-style-type: none"> <li>1. City of Rio Dell: 34 effluent violations subject to MMPs between 11/16/21 and 2/17/23. The deadline for formal enforcement action is <b>May 16, 2023</b>.</li> <li>2. Town of Loleta: 112 effluent violations subject to MMPs between 03/15/18 and 09/27/22. The next deadline for formal enforcement action is <b>July 5, 2023</b>.</li> <li>3. Samoa Pacific Group LLC (Peninsula CSD): Two (2) effluent violations and six late reporting violations subject to MMPs between 02/02/22 and 03/02/22. The deadline for formal enforcement action is <b>August 2, 2023</b>.</li> <li>4. City of Fortuna: Five (5) effluent violations subject to MMPs from 04/20/21 to 07/11/22. The next deadline for formal enforcement action is <b>November 19, 2023</b>.</li> <li>5. Forestville Water District: Seven (7) effluent violations subject to MMPs between 04/17/19 and 11/19/22. The deadline for formal enforcement action is <b>February 8, 2024</b>.</li> <li>6. City of Arcata: Ten (10) effluent violations subject to MMPs between 10/05/22 and 03/31/23. The deadline for formal enforcement action is <b>April 5, 2024</b>.</li> <li>7. City of Eureka: Six (6) effluent violations subject to MMPs between 10/13/22 and 3/13/23. The deadline for formal enforcement action is <b>April 13, 2024</b>.</li> </ol>	<p>Various dates (See listed items)</p>

**1.d – 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 five to ten complaints per week that need to be tracked, investigated, and responded to in a timely manner by the Regional Water Boards assigned to them.

**Key Issues and Considerations:** 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 FY, 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 23/24: 0.2**

**Priority 1.e – 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.

**Key Issues and Considerations:** Enforcement staff will screen sites and cases and direct limited resources to those sites that pose significant threats to water quality and where 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 23/24: 0.1**

**Priority 1.f – 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. CAOs, Cease and Desist Order, or ACLs 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.

**Key Issues and Considerations:** Enforcement Unit staff has drafted an updated template to use for the development of CAOs. Staff anticipate that this template will improve processing times for issuing CAOs 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 23/24: 0.4 (Includes 0.1 PY Management)**

**Priority 1.g – Executive Officer Summary Enforcement Reports**

**Summary:** The bimonthly enforcement reports summarize formal and informal enforcement actions issued by the regulatory programs during the reporting periods. Additionally, the report includes summaries of active ACL Complaints, ACL Orders, and settlement negotiations pending the adoption of final Stipulated ACL Orders.

**PY Allocation for FY 23/24: 0.05**

Milestones	Target Date
Publish an article in the North Coast Regional Water Board Executive Officer's Report that reviews remediation successes and compliance statuses of active CAOs.	Apr-24
Publish an article in the North Coast Regional Water Board Executive Officer's Report for each of the August, October, December, February, April, and June Board Meetings.	Jul-23, Sep-23, Nov-23, Jan-24, Mar-24, May-24

**Priority 2.h – 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.

**Key Issues and Considerations:** 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 24/24:** 0.05 (Management only)

Milestones	Target Date
Develop a cost recovery process for CAOs	Dec-23

**4.3 Performance Targets**

**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:** Enforcement action to impose MMPs in all cases within 18 months from the date of violation. (80% of Facilities)

## 5.0 Supporting Information

### 5.1 Cannabis Cultivation Program References

[Resolution No. 2019-0007, Adopting the Updates to the Cannabis Cultivation Policy](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2019/rs2019_0007.pdf)

([https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2019/rs2019\\_0007.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2019/rs2019_0007.pdf))

[Cannabis Cultivation Policy](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf)

([https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/final\\_cannabis\\_policy\\_with\\_attach\\_a.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf))

[Cannabis Cultivation Policy Staff Report](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/staff_report_with_appendices.pdf)

([https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/staff\\_report\\_with\\_appendices.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/staff_report_with_appendices.pdf))

[Cannabis General Order \(Order No. WQ 2019-0001-DWQ\)](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf)

([https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2019/wqo2019\\_0001\\_dwq.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf))

Attachment A: [Cannabis Policy Attachment A](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf#page=40)

([https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/final\\_cannabis\\_policy\\_with\\_attach\\_a.pdf#page=40](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf#page=40))

Attachment B: [Monitoring and Reporting Program](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf#page=43)

([https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2019/wqo2019\\_0001\\_dwq.pdf#page=43](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf#page=43))

Attachment C: [Notice of Termination](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf#page=51)

([https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2019/wqo2019\\_0001\\_dwq.pdf#page=51](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf#page=51))

Attachment D: [Technical Report Guidance](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf#page=54)

([https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2019/wqo2019\\_0001\\_dwq.pdf#page=54](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf#page=54))

### 5.2 Enforcement Program References

[Statewide Enforcement Policy](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf)

([https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2017/040417\\_9\\_final%20adopted%20policy.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf))

[Supplemental Environmental Project \(SEP\) Policy](https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/seps/20180503_sep_policy_amd.pdf)

([https://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/seps/20180503\\_sep\\_policy\\_amd.pdf](https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/seps/20180503_sep_policy_amd.pdf))

[Regionwide Enforcement Priorities](https://www.waterboards.ca.gov/water_issues/programs/enforcement/priorities.html)

([https://www.waterboards.ca.gov/water\\_issues/programs/enforcement/priorities.html](https://www.waterboards.ca.gov/water_issues/programs/enforcement/priorities.html))