State Water Resources Control Board
Workshop

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

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

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

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

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

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

Water Code Section 13276 (b)
Water Boards Responsibilities

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

*Business and Professions Code section 26060.1(b)*
Water Boards Responsibilities (cont’d)

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

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

Water Code Section 13149(a)(1)(A) and (a)(2)
Water Boards Cannabis Program
Background
Water Boards - Cannabis Cultivation Program

Background

17 Oct. 2017
Cannabis Policy and Cannabis Cultivation General Order adopted by State Water Board

18 Dec. 2017
Cannabis Policy was approved by Office of Administrative Law (OAL). Cannabis Cultivation General Order effective.

19 Dec. 2017
Deputy Director of Water Rights established general conditions for the Cannabis Small Irrigation Use Registration Program

10 Apr. 2018
Deputy Director of Water Rights established updated general conditions for the Cannabis Small Irrigation Use Registration Program

28 Sep. 2018
State Water Board releases proposed updates to the Cannabis Policy, Staff Report, and Cannabis Cultivation General Order for public comment
Cannabis Policy Regulatory Flow

- General Order Waste Discharge Regulatory Program
- Policy for Water Quality Control (Requirements)
- Small Irrigation Use Registration Program
- California Department of Food and Agriculture’s CalCannabis Cultivation Licensing
Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation

Main Document

- Provides overview of Water Boards’ program and context for how it fits with other regulatory programs
- Establishes 14 regions throughout state for instream flow requirements
- Continuing authority to amend Policy
- Describes how Policy is enforced

Attachment A: Cannabis Cultivation Requirements

- Section 1 – Definitions, General Requirements, and Prohibitions
- Section 2 – Requirements for Water Diversion and Waste Discharge (10 subsections)
- Section 3 – Numeric and Narrative Instream Flow Requirements
- Section 4 - Watershed Compliance Gage Assignments
- Section 5 – Planning and Reporting
- Section 6 – Useful Guidance Documents
Overview of Proposed Updates
Cannabis Policy and Cannabis Cultivation General Order Update

Main updates proposed to Cannabis Policy and Cannabis Cultivation General Order are focused on:

- Onstream Reservoirs
- Tribal Buffers (permission to cultivate on and/or within 600 feet)
- Requirements for Conditionally Exempt Indoor Cultivation Sites
- Minor clean up and clarifications based on feedback received during initial implementation efforts

Proposed updates are shown in:

- **red bold/underline** for new text
- **red bold/strike-out** for deleted text

Broader review and update will be completed in future (anticipated 2021/2022)
Updates to Main Document of Cannabis Policy

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

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

- Policy requires cannabis cultivators to obtain written permission from affected tribe if cultivation area is on or within 600 feet of Tribal lands.

- Updated requirement to improve implementation and provide more options for tribes to approve/deny requests:
  - Water Boards notify tribes of request to cultivate on or within 600 feet of tribal lands; 45-day period for the tribe to accept, reject, or remain silent (considered acceptance).
  - Tribe can inform State Water Board that the tribe does not approve any cannabis cultivation on and/or within 600 feet.
  - Tribe can waive the 45-day notification period for all cannabis cultivation on and/or within 600 feet (blanket approval).
Attachment A - Requirements for Conditionally Exempt Indoor Cultivation Sites

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

Option 1: Building permit on file with county, city, or local jurisdiction and started construction prior to October 1, 2018

- Valid certificate of occupancy for indoor cannabis cultivation; and

- Either:
  - Connected to and discharges any industrial wastewater to a permitted wastewater treatment collection system; or
  - Discharges any industrial wastewater directly to storage tank, and discharge is properly disposed of by a permitted wastewater hauler at a permitted wastewater treatment facility
Option 2: Building permit on file with the county, city, or local jurisdiction and construction **started on or after October 1, 2018**

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

Modify Policy to provide path for cultivators with certain pre-existing onstream reservoirs to obtain a Cannabis Small Irrigation Use Registration (SIUR) if:

- Reservoir existed prior to October 1, 2016; and
- Deputy Director for Division of Water Rights and CDFW determine removal of reservoir or installation of off-stream storage would cause more environmental damage than continuing to use onstream reservoir for diversion and storage
Attachment A - Onstream Reservoirs (cont’d)

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

Cannabis Policy, Attachment A, Section 2 Requirement 79
Attachment A – Onstream Reservoirs (cont’d)

Existing Water Right Registrations

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

- Ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and flows needed to maintain natural flow variability;
- Ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and
- Otherwise protect fish, wildlife, fish and wildlife habitat, and water quality
Attachment A – Onstream Reservoir Measurement Requirement

- Cannabis cultivators with onstream reservoirs shall install and maintain a measuring device (e.g., water level sensor and area-capacity curve) capable of recording the date, time, and volume of water diverted at an hourly or more frequent basis, year-round.

- Measurement device shall be installed and calibrated by a Qualified Professional (including development of area-capacity curve).

- Maintain hourly depth and volume records from measurement device and area-capacity curves at cultivation site.
  - Shall make records available for review upon request by staff from Water Boards or CDFW.
Other Policy Clarifications and Cleanups

Examples include:

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

- Applicable Policy updates were also made to Cannabis Cultivation General Order to ensure consistency
<table>
<thead>
<tr>
<th>Regional Water Board</th>
<th>Mailing Address</th>
<th>E-Mail Address</th>
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</thead>
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<tr>
<td>North Coast</td>
<td>5550 Skylane Blvd., Ste. A  Santa Rosa, CA 95403</td>
<td><a href="mailto:Northcoast.cannabis@waterboards.ca.gov">Northcoast.cannabis@waterboards.ca.gov</a></td>
</tr>
<tr>
<td>San Francisco Bay</td>
<td>1515 Clay Street, Ste. 1400 Oakland, CA 94612</td>
<td><a href="mailto:Sanfranciscobay.cannabis@waterboards.ca.gov">Sanfranciscobay.cannabis@waterboards.ca.gov</a></td>
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<tr>
<td>Central Coast</td>
<td>895 Aerovista Place, Ste. 101 San Luis Obispo, CA 93401</td>
<td><a href="mailto:Centralcoast.cannabis@waterboards.ca.gov">Centralcoast.cannabis@waterboards.ca.gov</a></td>
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<tr>
<td>Los Angeles</td>
<td>320 W. 4th Street, Ste. 200 Los Angeles, CA 90013</td>
<td><a href="mailto:Losangeles.cannabis@waterboards.ca.gov">Losangeles.cannabis@waterboards.ca.gov</a></td>
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<tr>
<td>Central Valley Redding Office</td>
<td>364 Knollcrest Drive, Ste. 205 Redding, CA 96002</td>
<td><a href="mailto:Centralvalleyredding@waterboards.ca.gov">Centralvalleyredding@waterboards.ca.gov</a></td>
</tr>
<tr>
<td>Central Valley Sacramento Office</td>
<td>11020 Sun Center Drive, Ste. 200  Rancho Cordova, CA 95670</td>
<td><a href="mailto:Centralvalleysacramento@waterboards.ca.gov">Centralvalleysacramento@waterboards.ca.gov</a></td>
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<tr>
<td>Central Valley Fresno Office</td>
<td>1685 E Street  Fresno, CA 93706</td>
<td><a href="mailto:Centralvalleysacramento@waterboards.ca.gov">Centralvalleysacramento@waterboards.ca.gov</a></td>
</tr>
<tr>
<td>Lahontan South Lake Tahoe Office</td>
<td>2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150</td>
<td><a href="mailto:Lahontan.cannabis@waterboards.ca.gov">Lahontan.cannabis@waterboards.ca.gov</a></td>
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<tr>
<td>Lahontan Victorville Office</td>
<td>15095 Amargosa Road - Bldg 2, Ste. 210  Victorville Ca 92394</td>
<td><a href="mailto:Lahontan.cannabis@waterboards.ca.gov">Lahontan.cannabis@waterboards.ca.gov</a></td>
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<tr>
<td>Colorado River</td>
<td>73-720 Fred Waring Dr., Ste. 100 Palm Desert, CA 92260</td>
<td><a href="mailto:Lahontan.cannabis@waterboards.ca.gov">Lahontan.cannabis@waterboards.ca.gov</a></td>
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<tr>
<td>Santa Ana</td>
<td>3737 Main Street, Suite 500 Riverside, CA 92501</td>
<td><a href="mailto:Santaana.cannabis@waterboards.ca.gov">Santaana.cannabis@waterboards.ca.gov</a></td>
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<tr>
<td>San Diego</td>
<td>2375 Northside Drive, Ste. 100 San Diego, CA 92108</td>
<td><a href="mailto:Sandiego.cannabis@waterboards.ca.gov">Sandiego.cannabis@waterboards.ca.gov</a></td>
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- Monitoring and Reporting Program emails updated
- Requires existing enrollees to comply with water diversion and instream flow requirements
- Removed redundant findings
Overview of New Websites and Tools
Overview of New Websites and Tools

- **Online Cannabis Compliance Gage Mapping Tool**
  - https://www.waterboards.ca.gov/water_issues/programs/cannabis/online_mapping_tool.html

- **Map of Existing Flow Requirements**
  - https://www.waterboards.ca.gov/water_issues/programs/cannabis/existing_flow_req.html

- **Cannabis Compliance Gages**
  - https://www.waterboards.ca.gov/water_issues/programs/cannabis/tessmann_instream_flow_requirements.html
Cannabis Compliance Gages Website

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

Table 2. Upper Sacramento Region Compliance Gage Numeric Instream Flow Requirements

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<thead>
<tr>
<th>Gage ID</th>
<th>Gage Name</th>
<th>Source</th>
<th>November (cfs)</th>
<th>December (cfs)</th>
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<td>11355000</td>
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<td>PRB</td>
<td>PH-27 PIT RIVER AT BIG BEND</td>
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Online Cannabis Compliance Gage Mapping Tool

Cannabis Policy Compliance Gage Assignments - Mapping Tool Description and Purpose

This webpage is designed to provide cannabis cultivators that divert from surface water with a tool to check whether they may divert for cannabis cultivation on a given day. A summary of some of the main Cannabis Policy’s requirements related to diversion of water for cannabis cultivation is available below.

How to Use the Mapping Tool:

1. Navigate to your point of diversion by entering your address in the search bar or zooming in on the map. (You may need to click on the “OK” box if it’s your first time visiting the mapping tool.)
2. Click on the map to identify the location of your point of diversion and a Gage Pop-Up Box will appear with information about whether the DIVERSION IS AUTHORIZED or the DIVERSION IS NOT AUTHORIZED for that day. Cannabis cultivators are required to check if water is available to divert at their point of diversion (e.g., pump inlet) at least daily, prior to diverting.
3. If you see “More Information Needed” in the Gage Pop-Up Box, please refer to the Instructions for Using the Cannabis Compliance Gaging Tool below.
4. If you see “Contact SWRCB at CannabisWR@Waterboards.ca.gov” in the Gage Pop-Up Box, please refer to the Instructions for Using the Cannabis Gage Mapping Tool.

For more detailed instructions on how to use the Mapping Tool, see the instructions for Using the Cannabis Compliance Gage Mapping Tool. For more information about the terms (e.g., DIVERSION AUTHORIZED, etc.), please refer to the Definitions of Pop-Up Box Attributes and Fields.

The map below identifies compliance gage assignments for cannabis cultivators with a surface water diversion based on the location of the point of diversion.
The map below identifies compliance gage assignments for cannabis cultivators with a surface water diversion based on the location of the point of diversion.