

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
Thursday, February 21, 2019
Regional Water Board Office
Santa Rosa, California

ITEM: 10

SUBJECT: Update on Cannabis Regulatory and Enforcement Program (*Kason Grady, Kevin Porzio, Dan Schultz*)

BOARD ACTION: This is an informational item; no action will be taken by the Board.

BACKGROUND: The Water Boards' Cannabis Regulatory and Enforcement Program has gone through rapid development and adaptive management over the last few years and warrants an informational update to the North Coast Regional Water Quality Control Board (Regional Water Board) and public to discuss the current state of affairs. On August 13, 2015, the Regional Water Board adopted Order No. R1-2015-0023¹ (the Regional Cannabis Order). Then, after passage of the Medical and Adult Use of Cannabis Regulatory and Safety Act and as mandated therein, on October 17, 2017, the State Water Resources Control Board approved the Cannabis Cultivation Policy² and Order WQ 2017-0023-DWQ (the Statewide Cannabis General Order)³. On December 13, 2017, staff from the Regional Water Board and from the State Water Board Divisions of Water Rights and Water Quality presented an informational item to the Regional Water Board. Staff presented an overview of the Cannabis Cultivation Policy and the Statewide Cannabis General Order, including differences with the Regional Cannabis Order, the requirement for enrollees in the Regional Cannabis Order to transition to the Statewide Cannabis General Order by July 1, 2019, and a status update of the Region's Cannabis Regulatory and Enforcement Program.

On September 28, 2018, the State Water Board released proposed updates to the Cannabis Cultivation Policy, Cannabis Cultivation Policy Staff Report, and Cannabis General Order for public comment. The public comment period ended November 27, 2018. The State Water Board will hold public hearings to receive oral comments regarding (1) the Cannabis Policy, and (2) the Cannabis Cultivation General Order. The State Water Board may adopt each of these items after their respective hearings. The hearings will be conducted as part of the Board's February 5, 2019, State Water Board meeting.

¹ *Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects*

² *Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation*

³ *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation*

DISCUSSION: This informational update on the status of the Cannabis Program will include a summary of the statewide program with an emphasis on issues of particular relevance to the North Coast Region. State Water Board staff will present on the outcomes of the February 5, 2019, State Water Board public meeting to consider proposed updates to the Cannabis Cultivation Policy and Cannabis General Order. The updates are primarily focused on onstream reservoirs, tribal buffers, requirements for conditionally exempt indoor cultivation sites, and minor cleanup and clarifications. Regional Water Board staff will present on the four pillars of the Cannabis Program: Order implementation, interagency coordination, outreach and education, and enforcement. Additionally, staff will discuss administrative topics, including staffing and the establishment of a Northern Field Office in Eureka.

The Regional Water Board now has 17 positions funded to regulate Cannabis cultivation with only one position open due to a staff departure. To accommodate these staff, the Regional Water Board conducted an organizational restructure to establish the Cannabis and Enforcement Division including Northern and Southern Cannabis Regulatory Units, the Enforcement Unit, and an Enforcement Specialist. The Northern Cannabis Regulatory Unit will be based out of Eureka, California, when construction of the new Northern Field Office is complete sometime this spring.

As of October 2017, the North Coast Region had 2939 enrollees in the Regional Cannabis Order. Since then, the Water Boards have received over 3,000 (1243 in the North Coast Region) applications for coverage under the Statewide Cannabis General Order bringing the number of enrollees in Cannabis regulatory orders throughout the state to over 5500, including 3592 in the North Coast Region. During 2018, Regional Water Board staff implemented both the regional and statewide orders, processed transitions from the regional to the statewide order, processed requests for termination, authorized instream work projects, inspected sites, participated on interagency teams to assess threats and impacts to water quality, provided education and outreach to the public and regulated community, regularly met with staff from Humboldt and Mendocino Counties, and developed enforcement cases. Staff conducted 191 inspections of Cannabis cultivation sites during the 2018 calendar year, including 125 warrant-based inspections with other agencies. Staff issued 1120 Notices of Violation and continues to spend time and resources on cannabis enforcement cases, including Cleanup and Abatement Orders, investigative orders, and settlement negotiations.

The Statewide Cannabis General Order requires that existing enrollees under the Regional Cannabis Order transition to the new Statewide Cannabis General Order by July 1, 2019. There remain 2806 enrollees under the Regional Cannabis Order and, of this amount, 91 have requested to transition to the Statewide General Order and are pending processing. As a result, 2715 enrollees remain that will either need to transition to the Statewide Cannabis General Order or terminate their enrollment. The Regional Water Board has already received 221 requests to terminate from the Regional Cannabis Order and staff anticipate receiving hundreds more requests by July 2019, due to many enrollees' inability to transition due to local regulations that do not allow cultivation on those properties.

Many sites that request termination will still require cleanup and issuance of Cleanup and Abatement Orders due to ongoing threats to water quality even though cannabis cultivation has ceased.

Staff also anticipate a major activity for 2019 to include permitting instream work to bring sites into compliance. During the first few years of this program, many sites developed plans to come into compliance, but very few submitted applications for instream work. Based on inspections, staff understand that many more sites need to complete instream work to come into compliance than have submitted applications. As a result, staff are finalizing an updated and streamlined process for applicants to apply for, and for staff to approve, instream work. Staff will then conduct outreach to the regulated community and consultants to increase awareness of the requirements and the updated process.

RECOMMENDATION: This is an informational item.

**SUPPORTING
DOCUMENTS:**

1. Order No. R1-2015-0023
https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2015/15_0023_Cannabis_Order.pdf
2. Order WQ 2017-0023-DWQ
https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/finaladoptedcango101717.pdf
3. Proposed updates to the Cannabis General Order
https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/cango_sept272018.pdf
4. Cannabis Cultivation Policy
https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/final_cannabis_policy_with_att_a.pdf
5. Proposed updates to the Cannabis Cultivation Policy
https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy_sept272018.pdf
6. Organizational Chart for the Cannabis and Enforcement Division, page 4 of 5:
https://www.waterboards.ca.gov/about_us/org_charts/display.php