

Cannabis Policy Compliance Gage Assignments - Background

On October 17, 2017, the State Water Resources Control Board (State Water Board) adopted the Cannabis Cultivation Policy- Principles and Guideline for Cannabis Cultivation (Cannabis Policy) and the General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order). On December 18, 2017, the state's Office of Administrative Law approved the Cannabis Policy, making the Cannabis Policy and Cannabis General Order effective as of that date.

The Cannabis Policy will be implemented through the Small Irrigation Use Registration (SIUR) Program and the Cannabis General Order. Compliance with the Cannabis Policy is required to obtain a license from the California Department of Food and Agriculture (CDFA) under its CalCannabis Licensing Program. Attachment A, Section 3 of the Cannabis Policy includes Numeric and Narrative Instream Flow Requirements. The State Water Board is requiring a surface water diversion forbearance period to ensure adequate flows are maintained throughout the dry season and protect aquatic species, aquatic habitat, and water quality. Minimum instream flow requirements during the wet season are needed for the protection of aquatic species life history needs. For threatened and endangered anadromous salmonids, minimum flows are needed to address life history needs, such as:

1. maintaining natural abundance and availability of spawning habitat;
2. minimizing unnatural adult exposure, stress, predation, and delay during adult spawning migration; and
3. sustaining high quality and abundant juvenile salmonid winter rearing habitat.

The State Water Board applied the Tessmann Method to a predicted historical flow data set sourced from a flow modeling effort conducted by the United States Geological Survey (USGS) in cooperation with The Nature Conservancy and Trout Unlimited (USGS flow modeling data). The interim instream flow Requirements were calculated for compliance gages throughout the state. The Tessmann Method and the USGS flow modeling data allow for instream flow requirements to be calculated at additional compliance points throughout the state. The Cannabis Policy allows the State Water Board to use the Tessmann Method and the USGS flow modeling data to calculate or adjust a flow requirement, as needed, throughout the state.

Section 4 of Attachment A includes the Watershed Compliance Gage Requirements. Compliance gage assignments have been developed for all watershed areas throughout the state. Watershed areas that do not have existing gages are assigned a compliance gage for a different location in the same watershed or for a nearby watershed with similar flow characteristics. Cannabis cultivators in ungaged watersheds may be required to install a gage if information indicates that use of the assigned gage does not adequately protect instream flows. Cannabis cultivators in watersheds without an assigned gage may be required to install a gage if information indicates that a gage is necessary to adequately protect instream flows. The State Water Board will monitor where cannabis cultivation diversions are located to track areas where locally concentrated cannabis cultivation water diversions within a watershed may adversely affect instream flows.

The instream flow Requirement compliance gages are located in areas that are generally representative of the water availability and total demand occurring upstream of the gaging location or in a similar watershed. However, impacts may still occur in areas where there is

significant localized cannabis cultivation compared to water availability or where the compliance gage does not accurately reflect the demand in a paired watershed. To help ensure diversion of water for cannabis cultivation does not negatively impact the flows needed for fish spawning, migration, and rearing, or the flows needed to maintain natural flow variability and hydrologic connectivity, in addition to Narrative Flow Requirements, at all times cannabis cultivators shall bypass a minimum of 50 percent of the surface water flow past their point of diversion, as estimated based on visually observing surface water flow at least daily (see section 3 of Attachment A for additional information).