

State Water Resources Control Board Implementation of Senate Bill (SB) 837

Cannabis Interim Principles and Guidelines Outreach Meetings



Division of Water Rights
State Water Resources Control Board
August – October 2016

Disclaimer

- In general, reference to “cannabis cultivation” throughout this presentation refers to “commercial medical cannabis cultivation”
- The State Water Resources Control Board (State Water Board) is developing a regulatory program to protect waters of the State from water diversions related to cannabis cultivation
 - Program will cover medical cannabis (Proposition 215) cultivated on private land
- **Cannabis cultivation on public lands is illegal and may be subject to criminal prosecution**
- A permit obtained from the Water Boards (State Water Board and Regional Water Quality Control Boards) does not approve or endorse cannabis cultivation

Meeting Ground Rules

- Sign-in sheet, question and comment cards, and handouts are in the back
- Respect all speakers, all points of view are valid
 - You may not agree with a statement, but please allow the speaker the opportunity to be heard
- All who wish to speak must use a microphone
- Please hold all comments and questions until the end of the presentation
- Speakers may ask one question or make one comment at a time so that everyone has the opportunity to speak
- Please silence electronic devices

Meeting Agenda

- Background of Senate Bill (SB) 837
 - Signed by Governor June 27, 2016
 - Statutes 2016, Chapter 32 – www.leginfo.ca.gov
- Overview of State Water Board SB 837 responsibilities
- Overview of potential interim flow requirements, anticipated approach to develop interim flow requirements, and timeline
- Discussion of possible other interim principles and guidelines
- Brief introductions from other agencies present
- Breakout - meet with staff from agencies present

SB 837 Background

- Trailer Bill that includes clean up language for three bills passed in 2015 that established the Medical Marijuana Regulation and Safety Act in 2015 (renamed Medical Cannabis Regulation and Safety Act)
 - Assembly Bill 243
 - Assembly Bill 266
 - Senate Bill 643

State Water Board Responsibilities

State Water Board, in consultation with California Department of Fish and Wildlife (CDFW) and California Department of Food and Agriculture (CDFA), shall ensure that 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 flows needed to maintain natural flow variability

(Business and Professions Code, § 19332(d))

State Water Board Responsibilities (cont.)

- State Water Board, in consultation with CDFW, shall adopt principles and guidelines for diversion and use of water for cannabis cultivation in areas where cultivation may have potential to substantially affect instream flows
- Principles and guidelines shall include measures to protect springs, wetlands, and aquatic habitat from negative impacts of cannabis cultivation

(Water Code, §13149)

State Water Board Responsibilities (cont.)

- Principles and guidelines may include requirements that apply to groundwater extractions where the State Water Board determines those requirements are reasonably necessary
- State Water Board may update interim principles and guidelines as reasonably necessary (pending development of long-term principles and guidelines)

(Water Code, §13149)

State Water Board Responsibilities (cont.)

- Principles and guidelines shall be adopted as part of state policy for water quality control (Water Code §13140)
- Prior to adopting principles and guidelines, State Water Board shall allow for public comment (60 days) and hearing
- State Water Board has primary enforcement responsibility for principles and guidelines

(Water Code, §13149)

Other Agencies

- Regional Water Quality Control Boards
 - Responsible for overseeing the Cannabis Cultivation Waste Discharge Regulatory Programs
 - Region 1 (North Coast) and Region 5 (Central Valley) have waivers of waste discharge requirements established for cannabis cultivation
- California Department of Fish and Wildlife
 - Consulting agency for the protection of fish and wildlife
 - May adopt emergency regulations for interim flows associated with cannabis cultivation
 - Processes and issues Lake and Streambed Alteration (1602) agreements

Other Agencies

- California Department of Food and Agriculture
 - Responsible for licensing cultivators and establishing a track and trace program
- California Department of Public Health
 - Responsible for licensing manufacturers of products, such as edibles, and regulating testing laboratories
- Department of Consumer Affairs, Bureau of Medical Cannabis Regulation
 - Responsible for licensing and enforcing transporters, distributors, dispensaries, and testing laboratories

State Water Board Division of Water Rights's Main Areas of Focus

- To meet and support SB 837 directives, State Water Board Division of Water Rights intends to develop:
 - Policies for water quality control with principles and guidelines (e.g., flow requirements, fish screening of diversions, groundwater extractions, etc.)
 - **Interim principles and guidelines**
 - Long-term principles and guidelines
 - Statewide Small Irrigation Use Registration Program
 - Implementation and Enforcement Programs

Interim Principles and Guidelines

- State Water Board, in consultation with CDFW, shall adopt interim principles and guidelines, pending development of long-term principles and guidelines
 - Exempt from the California Environmental Quality Act, provided the actions do not involve relaxation of existing streamflow standards (Water Code, §13149 (b))
 - Targeting August 2017 for adoption of principles and guidelines for priority regions/watersheds
 - CDFW's licensing program begins January 1, 2018
 - Development of interim principles and guidelines for additional regions/watersheds thereafter, as needed

Long-term Principles and Guidelines

- Develop and implement long-term principles and guidelines
- Long-term principles and guidelines adopted by the State Water Board would replace interim principles and guidelines established by the State Water Board and/or CDFW
- Exempt from the California Environmental Quality Act provided the actions do not involve relaxation of existing streamflow standards (Water Code, §13149 (b))

Registrations

- Develop general terms and conditions for the Small Irrigation Use registration program that can be applied statewide to support cannabis cultivation
 - General Conditions currently only established for the AB 2121 Policy area
 - 20 acre-feet per year or less
 - Primary beneficial use is for irrigation, heat control, or frost protection
 - A small domestic use registration and a small irrigation registration may be in effect for the same facility if combined water use is less than 20 acre-feet per year
- **Small Domestic Use Registration Program does not cover commercial cannabis irrigation**
 - Application to cannabis cultivation for personal use is a case by case determination

Water Rights Filing

- If you are currently diverting surface water for cannabis cultivation and have not filed with the Division of Water Rights for an Initial Statement of Diversion and Use, Registration, or application for an Appropriative Permit you should do so immediately.
- Need to file prior to July 1, 2017 to ensure you can get a CDFA license (see Business and Professions Code 19332.2 for more details)
- Should also file if you plan to divert water for commercial cannabis cultivation and get a CDFA license in 2018.

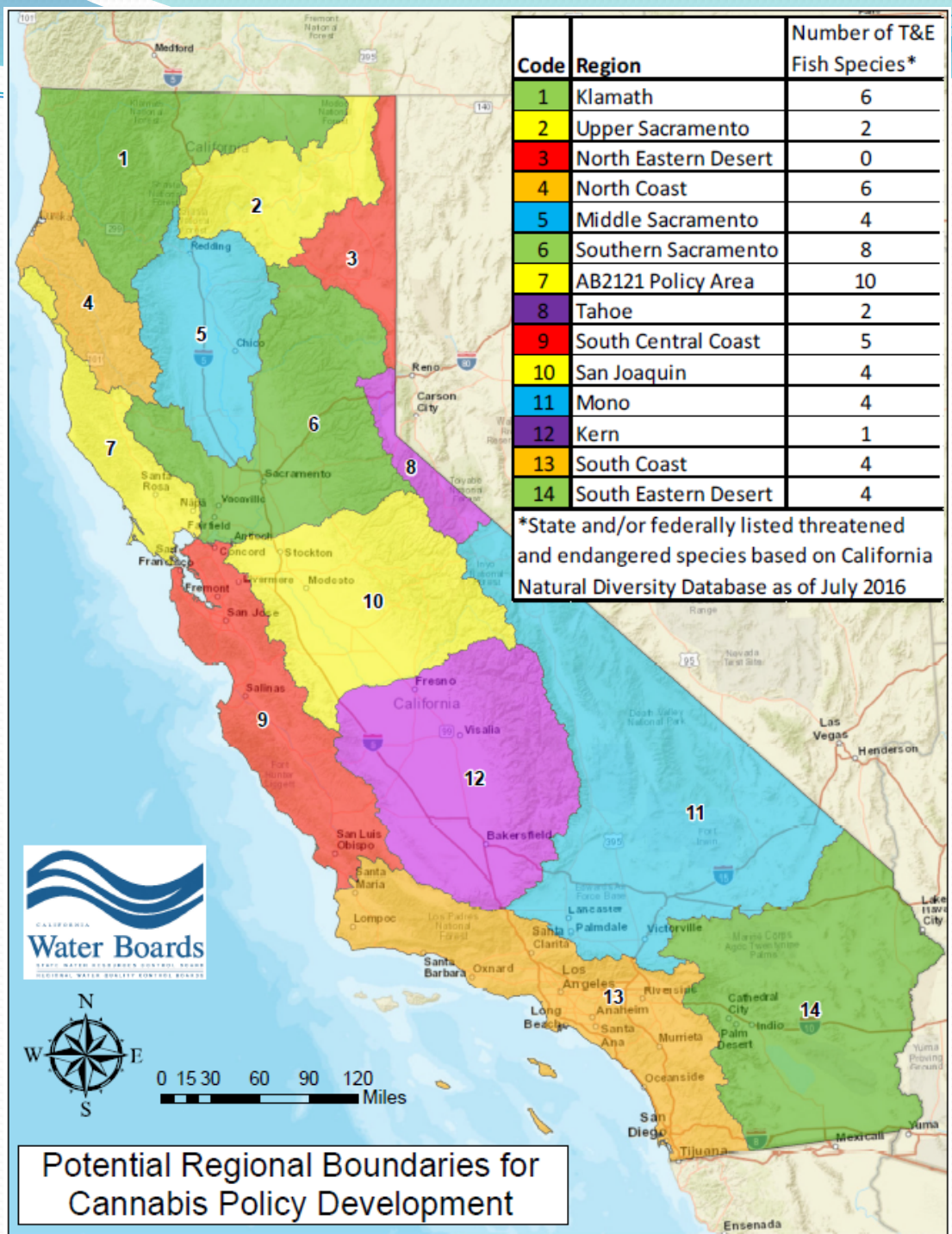
Implementation and Enforcement

- Goal: Develop interim principles and guidelines that are easily understood and enforceable
- State Water Board has primary enforcement responsibility for any principles and guidelines implemented as a result of SB 837 (Water Code, §13149(b)(5))
 - Must notify the CDFA of any enforcement action taken
- SB 837 does not limit the regulatory authority of the State Water Board under other provisions of law (Business and Professions Code, §19315 (c))

Overview of Approach to Interim Flow Requirements

- Establish regional boundaries
- Define geographic scope – priority areas expected to have high water demand for cannabis cultivation
- Identify desktop method and develop flow requirements at compliance gauges
- Identify additional (non-flow) principles and guidelines
- Develop final draft policy with flow requirements and additional principles and guidelines
- Adopt final policy with flow requirements and additional principles and guidelines

Map of Potential Regional Boundaries



Potential Regional Boundaries for Cannabis Policy Development

Interim Principles and Guidelines - Concept

- Surface water diversion forbearance period
 - Dry period
 - period will vary by location depending on climate and hydrology
- Flow requirements for diversion period
 - Wet season
 - Maintain first flush flows
 - Maintain spring recession flows
 - Maintain portions of other high flow events

Interim Principles and Guidelines - Concept

- Additional principles and guidelines
 - Dry season flow requirements for hydrologically connected groundwater diversions
 - Fish screens for diversions
 - Riparian buffers
 - Removal of fish passage barriers
 - Off-stream storage requirements
 - Secondary containment for bladders

Projected Timeline

- Conduct initial outreach meetings in key regions: August - October 2016
- Release policy, with principles and guidelines, for public review (60 days): March- May 2017
- State Water Board meeting for consideration of proposed principles and guidelines: August 2017

Public Participation

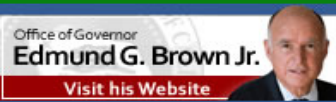
- How can you participate?
 - Participate in outreach meetings and workshops
 - Submit written comments (tell us what you like and recommendations)
 - Deadline to submit comments is **October 7, 2016**
 - Email: cannabisWR@waterboards.ca.gov
 - Written Correspondence:

State Water Resources Control Board
Division of Water Rights
Cannabis Interim Flow Unit
P.O. Box 2000
Sacramento, CA 95812-2000
 - Submit comments on Draft Interim Principles and Guidelines
 - Attend State Water Board meeting, and provide comments
 - Projected to be held in August 2017

Additional Information

- Check out our website at: waterboards.ca.gov/cannabis
- Sign up for our email list to receive additional information about the State Water Board's efforts related to commercial cannabis cultivation.
 - Go to:
http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml
 - Enter email address and name at the top of page
 - Select "Water Rights"
 - Check the "Cannabis Cultivators" box
 - Click "Submit"

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- Septic Systems (OWTS)
- Storage Tanks
- Storm Water
- Strategic Plan
- Water Quality Assessment
- Water Rights
- More...

[Emergency Water Conservation Regulations Portal](#)

ANNOUNCEMENTS

- [Press Release: State Water Board Releases Statewide "Stress Test" Data \(08/16/16\)](#)
- [Press Release: Are Harmful Algal Blooms Affecting Our Waters? \(08/16/16\)](#)
- [Statewide Water Conservation Declines to 21.5 Percent in June; Water supplier "Stress Tests" under review \(08/02/16\)](#)
- [Hearing to Begin Tomorrow On California WaterFix \(07/25/16\)](#)
- [Press Release: State Water Board Approves Prop 1 Storm Water Planning Grants \(07/21/16\)](#)
- [State Water Board's Household & Small Water System Drought Assistance \(HSWSDA\) Funding Program \(07/19/16\)](#)
- [Revised Drinking Water Fee Regulations \(07/13/16\)](#)
- [Notice of July 2016 Public Workshops on MCL development for 1,2,3-Trichloropropane; \(en Español\) \(07/13/16\)](#)
- [Statewide Water Conservation Grows to 28% in May; Urban Water Suppliers 'Stress Test' Data Under Review \(07/06/16\)](#)
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-> [State Water Resources Control Board](#) - Covering statewide issues

-> California Regional Water Quality Control Boards - Covering region-specific issues [\[map\]](#)

- > [RB1 - North Coast Region](#)
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- > [RB3 - Central Coast Region](#)
- > [RB4 - Los Angeles Region](#)
- > [RB5 - Central Valley Region](#)
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For assistance, questions, or comments, you can contact the Webmaster at: websupport@waterboards.ca.gov.

(Updated 2/13/14)



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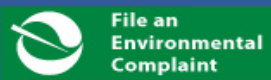
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- AB 2121 Instream Flow Guidelines for Northern Coastal Streams
- Bay Delta Notices
- Cal-Am Notifications
- California Water Action Plan/Statewide Instream Flows
- California Water Fix
- Cannabis Cultivators
- Delta Watershed Flow Objectives (Phase 4 of Bay-Delta effort)
- Drought Updates

Contact Information

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- Questions or Comments:
 - Email: CannabisWR@Waterboards.ca.gov
 - Written Correspondence:
 - State Water Resources Control Board
 - Division of Water Rights
 - Cannabis Interim Flow Unit
 - P.O. Box 2000
 - Sacramento CA, 92812-2000



Questions and Comments



Overviews by Attending Partner Agencies