

The proposed General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities Order (General Order) implements the requirements of the State Water Resources Control Board (State Water Board) Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation (Cannabis Policy). The Cannabis Policy establishes requirements for the diversion of water and discharge of waste associated with cannabis cultivation activities. Dischargers engaged in cannabis cultivation or associated activities are subject to the requirements of the Cannabis Policy and may be required to obtain coverage under the General Order.

## **General Information**

### **1. What discharge activities does the General Order cover?**

The General Order addresses activities related to cannabis cultivation or associated land development. “Discharger” is defined as any person or entity engaged in developing land for cannabis cultivation, providing access to land for cultivation activities, or any person or entity engaged in the legal cultivation of cannabis that discharges or threatens to discharge waste. The requirements also apply to growers and land developers that prepare sites to allow cannabis cultivation activities to occur.

### **2. Are the Regional Water Quality Control Boards (Regional Water Boards) required to use the General Order?**

The General Order is the primary method for Regional Water Boards to permit waste discharges from cannabis cultivation activities; however, the General Order is not the only way to permit discharges from cannabis cultivation sites. In the future, some Regional Water Boards may regulate cannabis waste discharges in their Irrigated Lands Regulatory Program (ILRP). Those Regional Water Boards will have to develop ILRP waste discharge requirements (WDRs); other alternatives include site-specific WDRs issued for an individual discharger. Any WDR or waiver of WDRs issued must comply with the requirements of the Cannabis Policy, as well as address water rights for any irrigation water diversion.

### **3. How will the General Order affect dischargers enrolled under the existing North Coast Regional Water Board waiver of WDRs (R1-2015-0023) or Central Valley Regional Water Board general WDRs (R5-2015-0113)?**

All existing dischargers enrolled under either order are required to transition to the statewide General Order by July 1, 2019, a site-specific WDR, or an ILRP WDR (if available).

## **General Order Coverage and Requirements**

### **4. What does the General Order authorize?**

The General Order provides authorization to discharge waste generated by cannabis cultivation and associated activities. Cultivation activities may occur indoor or outdoor. Some activities that require a water quality certification (e.g., construction of a surface water diversion structure) may be covered by the General Order at the discretion of the Regional Water Board Executive Officer. The General Order does not provide a water right.

**5. What types of General Order coverage is available?**

The General Order provides an exemption for personal non-commercial activities, conditional exemption for small commercial outdoor cultivation activities or indoor commercial cultivation activities, and enrollment under the General Order for larger commercial cultivation activities. In addition, site conditions (slope and/or proximity to water bodies) are considered in determining the risk to water quality. (Described in Question 7 below.)

Type	Disturbed Area	Commercial	Coverage
Personal Use Exemption	<1,000 ft <sup>2</sup>	No	Exempt
Conditional Exemption (outdoor)	<2,000 ft <sup>2</sup>	Yes	Conditionally Waived
Conditional Exemption (indoor)	Not Applicable	Yes	Conditionally Waived
Tier 1	≥2,000 ft <sup>2</sup> and <1 acre	Yes	Enrollment
Tier 2	≥1 acre	Yes	Enrollment

**6. What is disturbed area and how is it calculated?**

Disturbed area is defined as land area where natural conditions have been modified in a way that may result in an increase in turbidity in storm water discharged from the site, such as by removal of natural plant growth or modification of natural grade. Land disturbed for construction of roads, buildings, water storage areas, soil amendment storage areas, excavation, grading, or site clearing are included in the total disturbed area calculation.

Existing access roads that were constructed and are maintained in accordance with the [Handbook for Forest, Ranch, and Rural Roads](#), or areas where plant materials have been removed for wildfire suppression (but will regrow with seasonal precipitation) are not considered disturbed and are not included in the total disturbed area calculation.

**7. How is risk defined for Tier 1 or Tier 2 sites?**

Low-risk sites are those where no portion of the disturbed area is located on a slope greater than 30 percent and all of the disturbed area complies with the setback requirements.

Moderate-risk sites are those where any portion of the disturbed area is located on a slope greater than 30 percent and all of the disturbed area complies with the setback requirements. No portion of the disturbed area may exist on a slope greater than 50 percent.

High-risk sites are those where any portion of the disturbed area is located within the setbacks contained in Attachment A. The high-risk designation is a temporary designation until the site can comply with the setback requirements and can be reclassified as a low- or moderate-risk site. The enrollee must request reclassification from the Regional Water Board when the disturbed area within the setback is stabilized.

**8. What are the General Order’s setback requirements?**

The General Order’s setback requirements are based on proximities to a surface water body per the requirement of the Cannabis Policy. A summary table is provided below. Please refer to the detailed table containing the setback requirements in the Cannabis Policy. The site is classified as high-risk if any of the setbacks are not met.

Water Body	Watercourse Class	Distance (Low Risk)
Perennial watercourses, springs, or seeps	I	150 ft.
Intermittent watercourses or wetlands	II	100 ft.
Ephemeral watercourses	III	50 ft.
Man-made irrigation/water supply, etc.	IV	Riparian Zone

**9. How do I qualify for the personal use exemption under the General Order?**

To qualify for the personal use exemption, the cultivation must be a non-commercial activity. Personal use exempt cultivators are not required to apply for the exemption; however, the activity must be consistent with the statutory exemptions for personal medical use (Health and Safety Code section 11362.77) or non-medical use (Health and Safety Code section 11362.2), and comply with the following requirements:

- Disturb less than 1,000 square feet
- The cultivation area is contiguous (all located in one area)
- Comply with the General Order setback requirements
- No part of the disturbed area is located on land with a slope greater than 20 percent
- Implement all applicable best practicable treatment or control (BPTC) measures listed in Attachment A of the General Order.

**10. How do small commercial outdoor cultivators apply for the conditional exemption?**

Small commercial outdoor cultivators apply for coverage through the Internet as described in the General Order. Only one exemption can be claimed per parcel. Growers that participate in coalitions, cooperatives, or other combinations of cultivation activities cannot claim the conditional exemption for activities on the same parcel. The cultivation activity must also meet the following criteria:

- Disturb less than 2,000 square feet
- The cultivation area is contiguous (all located in one area)
- Comply with the General Order setback requirements
- No part of the disturbed area is located on land with a slope greater than 20-percent
- Implement all applicable best practicable treatment or control (BPTC) measures listed in Attachment A of the General Order.

**11. Do commercial indoor cultivators apply for coverage?**

To be considered an indoor cultivation activity, the activity must be located entirely within a structure with a permanent roof and a permanent relatively impermeable floor (e.g., concrete or asphalt paved). Commercial indoor cultivators apply for coverage under the waiver through the Internet as described in the General Order.

Indoor cannabis cultivators either will have access to a community sewage collection system, or will discharge their wastewater to an onsite wastewater treatment system (e.g., a septic tank and leach field system). Those dischargers with access to a community sewage collection system shall obtain authorization from the wastewater operator for the discharge (typically an industrial waste discharge permit). Those dischargers that will discharge to an onsite system are required to obtain authorization from the Regional Water Board. Local agencies (e.g., environmental health departments) cannot permit cultivation wastewater discharges because cultivation wastewater discharges are not considered domestic wastewater as defined by the statewide Onsite Wastewater Treatment Systems (OWTS) Policy.

## **12. How do Tier 1 or Tier 2 outdoor cultivators apply for coverage?**

Tier 1 or Tier 2 outdoor cultivators apply for coverage through the Internet as described in the General Order. The application process will prompt the applicant to enter information that will classify the activity as either Tier 1 or Tier 2, determine the risk level, and identify what technical reports are required.

### **Application Process**

## **13. Who can apply for coverage under the General Order?**

Business entities, employees, contractors, third party representatives, landowners, cultivators, lessees, and tenants may apply for coverage under the General Order.

## **14. How can I be covered by the General Order?**

The State Water Board has created an online application portal that allows an applicant to apply through the Internet. The application addresses both the General Order and the water right program. Upon submittal of an application for coverage under the General Order, a Notice of Receipt will be issued via e-mail. The Notice of Receipt will indicate if an application fee is assessed, and where to pay the fee (within 30 days). Upon payment of the fee, the Regional Water Board will issue a Notice of Applicability (NOA). The NOA can be used to apply to the California Department of Food and Agriculture to obtain a cannabis cultivation license.

## **15. Is there a fee? How much?**

Yes. All entities that produce commercial cannabis are required to obtain coverage under the General Order and are required to pay a fee. Fees are based on the site complexity and threat to water quality.

- Applicants that qualify for the personal use exemption are not producing commercial cannabis and are not required to obtain coverage; therefore, they do not pay a fee.
- Dischargers that qualify for conditional exempt status (indoor or outdoor) pay an application fee for initial coverage under the waiver (and renewals of coverage every five years). Conditionally exempt dischargers do not pay an annual fee.
- Dischargers that are enrolled under the General Order (Tier 1 or Tier 2) pay an application fee and an annual fee. The application fee serves as the first year's annual fee.
- Dischargers enrolled under the North Coast Regional Water Board waiver of WDRs (R1-2015-0023) or Central Valley Regional Water Board general WDRs (R5-2015-0113) have already paid a fee; therefore, they are not required to pay a fee at the time of transitioning to the statewide General Order. They must continue to pay applicable fees until they transition to the statewide General Order.

The water quality fee schedule is available at: [http://www.waterboards.ca.gov/resources/fees/water\\_quality/](http://www.waterboards.ca.gov/resources/fees/water_quality/)

## **16. How do I terminate coverage under the General Order?**

Except for cannabis cultivators that qualify for the personal use exemption, all cultivators enrolled or conditionally exempt are required to submit a Site Closure Report and a Notice of Termination form when ending cannabis cultivation activities. The Notice of Termination is included in the General Order as Attachment C. Guidance on how to prepare a Site Closure Report is available in General Order Attachment D.

## **Monitoring and Reporting**

### **17. What monitoring and reporting requirements exist in the General Order?**

Tier 1 and Tier 2 dischargers are required to monitor and submit an annual monitoring report to the Regional Water Board. General Order Attachment B presents the monitoring and reporting program (MRP). The Regional Water Board Executive Officer may revise an MRP if site conditions warrant additional monitoring and reporting to protect water quality.

For more information on how the State and Regional Water Boards address cannabis cultivation activities through its cannabis regulatory program, please visit: <<http://www.waterboards.ca.gov/cannabis>>

*(This fact sheet was last updated October 16, 2017.)*