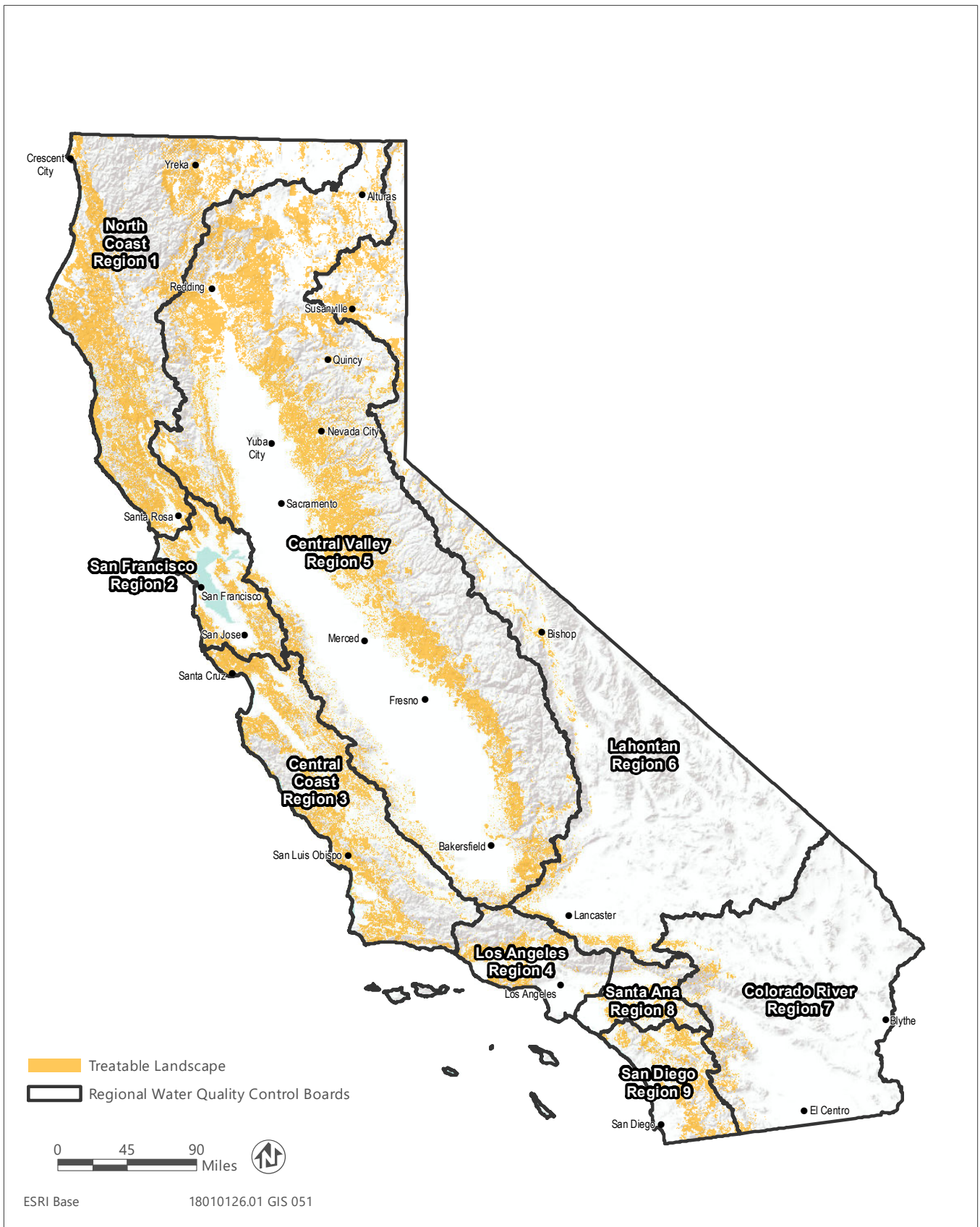


# **Appendix HYD-1**

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Waste Discharge Waivers for Timber  
and Vegetation Management Activities



Source: Data downloaded from the State Water Resources Control Board in 2019

4/18/2019

### Regional Water Quality Control Boards

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## Region 1: North Coast

California Regional Water Quality Control Board  
North Coast Region

ORDER NO. R1-2004-0030

General Waste Discharge Requirements  
For  
Discharges Related to Timber Harvest Activities  
On Non-Federal Lands in the  
North Coast Region

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Board) finds that:

1. California Water Code (CWC) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate regional board a report of waste discharge (ROWD) containing such information and data as may be required by the Regional Board.
2. The Regional Board has a statutory obligation to prescribe waste discharge requirements except where the Regional Board finds that a waiver of waste discharge requirements for a specific type of discharge is in the public interest pursuant to CWC Section 13269.
3. CWC Section 13269 provides that any such waiver of waste discharge requirements shall be conditional, enforceable and may be terminated at any time by the Regional Board.
4. The Regional Board, in accordance with CWC Section 13269, waived waste discharge requirements for timber harvest activities in 1987 as set forth in Regional Board Resolution No. 87-113.
5. Recent amendments to CWC Section 13269 (Senate Bill 390) provide that existing waivers expired effective January 1, 2003, and that new waivers of waste discharge requirements for specific types of discharges must be renewed every five years.
6. In accordance with CWC Section 13269, the waste discharges for timber harvest activities shall be regulated in the future by waivers, or individual or general waste discharge requirements (WDRs).
7. The Regional Board, in compliance with CWC Section 13269, reviewed the previously issued categorical waiver for timber harvest activities (Regional Board Resolution No. 87-113) and adopted Order No. R1-2002-0109 "Interim Categorical Waiver for Discharges Related to Timber Operations in the North Coast Region," on December 10, 2002. Order No. R1-2002-0109 sunset on December 31, 2003, and was replaced with Order No. R1-2003-0116, which was adopted on November 5, 2003.
8. On March 24, 2004, the Regional Board adopted Order No. R1-2004-0015, Categorical Waiver for Discharges Related to Timber Harvest Activities on Federal Lands in the North

Coast Region. Order No. R1-2004-0015 rescinded sections of Order No. R1-2003-0116 that pertained to federal lands.

9. This Order rescinds the remaining portions of the prior Regional Board Order: "Interim Categorical Waiver for Discharges Related to Timber Operations in the North Coast Region," Order No. R1-2003-0116.
10. The US Environmental Protection Agency and State Water Resources Control Board must certify that the California Forest Practice Rules are Best Management Practices for timber operations on non-federal lands, at which time timber harvest activities on non-federal lands will be exempt from waste discharge requirements pursuant to the Z'berg-Nejedly Forest Practice Act Section 4514.3, except as provided for in Section 4514.3(b)(1)-(3). That has not occurred to date.
11. A Memorandum of Understanding (MOU) was entered into between the State Water Resources Control Board, Regional Water Boards and the California Department of Forestry and Fire Protection in March 2003 for the purpose of identifying procedures that will be used by each agency in carrying out their statutory responsibilities to prevent adverse effects on beneficial uses of water from silvicultural activities on non-federal land. Issues addressed in the MOU include application of CEQA to timber harvest review process, use of water quality standards and Basin Plans in timber harvest review process, monitoring of water quality, conflict resolution process, staff coordination and training and further actions.
12. These General Waste Discharge Requirements shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC 13263.
13. This Order does not apply to discharges requiring an National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act, including, but not limited to, silvicultural point sources as defined in 40 Code of Federal Register (CFR) 122.27.
14. The Regional Board Executive Officer (Executive Officer) or Regional Board shall terminate the applicability of this Order to any timber harvest activities at any time when such termination is in the public interest and/or the timber harvest activities could affect the quality or beneficial uses of the waters of the state.
15. The Regional Board may determine that discharges for projects where the applicant proposes to obtain coverage under general WDRs contained herein would be better regulated under individual waivers, other general WDRs, watershed WDRs, ownership WDRs, or individual WDRs.
16. General WDRs for a type of discharge may be superceded by the adoption by the State Water Resources Control Board or Regional Board of specific or general waiver or waste discharge requirements.

17. Discharges from timber harvest activities are produced by similar operations, involve similar types of waste, and require similar treatment standards. Therefore, some of these discharges are appropriately regulated under general WDRs rather than individual WDRs.
18. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan), including State Water Resources Control Board (State Water Board) Resolution No. 88-63, the existing and potential beneficial uses of waters potentially affected by the proposed activity include:
  - a. Municipal and Domestic Supply (MUN)
  - b. Agricultural Supply (AGR)
  - c. Industrial Service Supply (IND)
  - d. Industrial Process Supply (PROC)
  - e. Groundwater Recharge (GWR)
  - f. Freshwater Replenishment (FRSH)
  - g. Navigation (NAV)
  - h. Hydropower Generation (POW)
  - i. Water Contact Recreation (REC-1)
  - j. Non-contact Water Recreation (REC-2)
  - k. Commercial and Sport Fishing (COMM)
  - l. Aquaculture (AQUA)
  - m. Warm Freshwater Habitat (WARM)
  - n. Cold Freshwater Habitat (COLD)
  - o. Estuarine Habitat (EST)
  - p. Marine Habitat (MAR)
  - q. Wildlife habitat (WILD)
  - r. Preservation of Areas of Special Biological Significance (BIOL)
  - s. Rare, Threatened, or Endangered Species (RARE)
  - t. Migration of Aquatic Organisms (MIGR)
  - u. Spawning, Reproduction, and/or Early Development (SPWN)
  - v. Shellfish Harvesting (SHELL)
19. The Basin Plan contains water quality objectives, prohibitions and policies developed to protect the above-listed beneficial uses of water. Economic considerations were considered as required by law during the development of these objectives, prohibitions and policies. Prohibitions, provisions, policies, and other specifications contained in this Order implement the Basin Plan and the Porter-Cologne Water Quality Control Act. Compliance with applicable water quality objectives, prohibitions, and policies will protect the beneficial uses listed in Finding 18 above.
20. As provided by CWC Section 13350(a), any person may be liable for civil penalties if that person in violation of a waiver condition or waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance.

21. Most water bodies in the North Coast Region are listed as impaired due to either sediment and/or temperature (Section 303(d) of the Clean Water Act). Federal regulations require that a total maximum daily load (TMDL) be established for 303(d) listed water bodies for each pollutant of concern. TMDLs for North Coast water bodies are scheduled to be completed. In the absence of TMDLs, waste discharge requirements must be established to control pollutants of concern in discharges to 303(d) listed waters. Discharges cannot cause or contribute to water quality or beneficial use impairment.
22. This Order is intended to apply to new discharges from timber harvest activities that are not eligible for a waiver and are not otherwise required to obtain individual coverage.
23. This Order is consistent with the provisions of State Water Resources Control Board (State Water Board) Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California."
24. The Regional Board, acting as the lead agency for this project under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (CEQA), has conducted an Initial Study in accordance with Title 14, CCR Section 15063.
25. Timber harvesting activities covered under these Waste Discharge Requirements must, as a precondition, have achieved compliance with CEQA through the Timber Harvest Plan (THP) approval process at the California Department of Forestry (CDF). In issuing THPs, CDF acts as "lead agency," using a certified "functional equivalency" process, producing the equivalent to an Environmental Impact Report.
26. The Regional Board does not grant timber harvest permits, but reviews these permitted activities and their attendant environmental documents to determine and require compliance with the Basin Plan and the Porter-Cologne Water Quality Control Act. In that process, the Regional Board acts as a responsible agency under CEQA, relying on the environmental review documents prepared by CDF. CEQA specifically provides that in so doing, the environmental documents prepared by the lead agency are to be conclusively presumed adequate, with limited specified exceptions, and must be relied upon by the responsible agency in complying with CEQA. (Pub. Resources Code, section 21167.2; Title 14, California Code of Regulations, section 15231.) In acting as a responsible agency reviewing these permitted operations, the Regional Board exercises its authority to require any additional regulatory restrictions that may be necessary to go beyond mere avoidance of "significant adverse environmental impacts," to require whatever is necessary to comply with the requirements of the Basin Plan and Porter-Cologne Water Quality Control Act.
27. Consistent with the CEQA Guidelines' Class 7 Exemption, these General WDRs are an action taken by a regulatory agency "to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment." (14 CCR § 15307.) Similarly, consistent with Class 8, these General WDRs are an action taken by a regulatory agency "to assure the maintenance, restoration, enhancement, or protection of the environment where the

regulatory process involves procedures for protection of the environment.” (14 CCR § 15308.)

28. Despite the eligibility for these exemptions, out of an abundance of caution, and knowing the controversial nature of timber harvest activities and all regulatory actions relating thereto, the Regional Board has prepared a CEQA document. That Negative Declaration is fully supported by the record and the law. There is no evidence in the record to support a fair argument that these WDRs will result in significant environmental effects
29. The Regional Board staff has prepared a proposed Negative Declaration, a copy of which is attached hereto, in accordance with CEQA and the CEQA Guidelines (Title 14, CCR Section 15000 et seq.). The Negative Declaration concludes that the adoption of these general waste discharge requirements for timber harvest operations pursuant to Order No. R1-2004-0030 will not have a significant impact on the environment.
30. Copies of the proposed Negative Declaration were transmitted to all agencies and persons known to be interested in this matter according to the applicable provisions of CEQA.
31. The Regional Board conducted a public hearing on June 23, 2004, in Santa Rosa, California, and considered all evidence concerning this matter and adopted the Negative Declaration, a copy of which is attached hereto, and this Order, General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities On Non-Federal Lands in the North Coast Region.
32. The Regional Board, based on the testimony received at the aforementioned hearing, and the Negative Declaration determine that the adoption of these General WDRs for timber harvest activities in accordance with Order No. R1-2004-0030 will be consistent with the Basin Plan, Porter-Cologne Water Quality Control Act, federal and state law, will be in the public interest, and will not have a significant impact on the environment.
33. The Regional Board, in accordance with CEQA and State Guidelines, determines that there will be no significant adverse environmental impacts, individually, or cumulatively from this Order provided that there is compliance with its prohibitions, provisions, criteria, and conditions.
34. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the proposed discharge.

THEREFORE, the Regional Board hereby approves and adopts the Negative Declaration and Initial Study prepared on this Order, and directs the Executive Officer to file all appropriate notices; and

IT IS ORDERED that effective June 23, 2004, Order No. R1-2003-0116 is hereby rescinded, except for application to Projects that have been accepted for filing but not yet approved by the California Department of Forestry and Fire Protection as of the adoption date of Order No. R1-2004-0016 and Order No. R1-2004-0030. Such Projects are eligible for coverage under Order



No. R1-2003-0116 until October 15, 2004, should they qualify under the terms and conditions of that Order. All other dischargers seeking coverage under this Order shall comply with the following:

### **SECTION I: DEFINITIONS**

- A. "Controllable sediment discharge source" means sites or locations, both existing and those created by proposed timber harvest activities, within the Project area that meet all the following conditions:
1. is discharging or has the potential to discharge sediment to waters of the state in violation of applicable water quality requirements or other provisions of these General WDRs,
  2. was caused or affected by human activity, and
  3. may feasibly and reasonably respond to prevention and minimization management measures.
- B. "Discharger" means the timberland owner and anyone working on behalf of the timberland owner in the conduct of timber harvest activities on non-federal lands.
- C. "Erosion Control Plan" means a plan designed and implemented to prevent and minimize the discharge of sediment to waters of the state in violation of applicable water quality requirements or other conditions of this Order. The Erosion Control Plan (ECP) shall be developed by a qualified professional, included in the approved Project or submitted with the application when seeking coverage under these General WDRs, and shall incorporate Regional Water Board staff recommendations generated as part of the Project review and approval process that were designed to prevent and minimize discharge of sediment. The ECP shall include but is not limited to, a map clearly showing the location(s) of the site(s) that could discharge sediment, site specific designs and/or management measures to prevent and minimize the discharge of sediment, and a time schedule for implementation of site specific designs and/or management measures.
- D. "Minimization" means the treatment of the discharge or threatened discharge of sediment that cannot be prevented during design of the Project.
- E. "Monitoring" refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions. This includes, but is not limited to, assessment monitoring, trends monitoring, Basin Plan compliance monitoring, forensic monitoring, hillslope and instream effectiveness monitoring, and implementation monitoring.
- F. "Petroleum" means crude oil or any fraction which is liquid at 60 degrees Fahrenheit temperature at normal atmospheric pressure. This includes petroleum based substances comprised of a complex blend of hydrocarbons, such as gasoline, diesel, jet fuels, residual fuel oils, lubricants, some petroleum solvents, and used oils. Petroleum does not include liquid propane gas (LPG).

- G. "Prevention" means the Project has been designed to prevent the discharge or threatened discharge of sediment waste through the use of all feasible and reasonable project design, timing and sediment control practices.
- H. "Project" means any Timber Harvest Plan, Nonindustrial Timber Management Plan, other discretionary permits issued by the California Department of Forestry and Fire Protection (CDF) to harvest timber, including all amendments thereto that propose a change in timber harvest activities that in any way could adversely affect water quality, or any Notice of Exemption or Notice of Emergency Timber Operation accepted by CDF, or any other project, as defined by CEQA, that involves timber harvest activities provided that the project has complied with CEQA.
- I. "Qualified professional" means a person with the appropriate training and/or licensing to prepare technical reports designed to prevent the discharge of waste into waters of the state and conduct site inspections, including but not limited to, persons successfully completing the Ranch Water Quality Planning Short Course, Certified Erosion Control Specialist, Registered Professional Foresters, Registered Geologists, Certified Engineering Geologists, and Professional Civil Engineers.
- J. "Timber Harvest Activities" means commercial and non-commercial activities relating to forest management and timberland conversions. These activities include the cutting or removal or both of timber and other solid wood forest products, including Christmas trees, as well as, but not limited to, construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, watercourse crossings, landings, skid trails, or beds for the falling of trees; fire hazard abatement and fuel reduction activities; burned area rehabilitation; site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities; but excluding preparatory treemarking, surveying or roadflagging.
- K. "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal. Wastes specifically regulated under this Order include: earthen materials including soil, silt, sand, clay, rock; organic materials such as slash, sawdust, or bark that enter or threaten to enter into waters of the state; heat; petroleum products; and nutrients. Not all wastes are covered by these WDRs. Examples of wastes not specifically regulated under these General WDRs include: pesticides, hazardous materials, or human wastes.
- L. "Water Quality Requirements" means a water quality objective (narrative or numeric), prohibition, TMDL implementation plan, policy, or other requirement contained in a water quality control plan adopted by the Regional Board and approved by the State Water Board, and all other applicable plans or policies adopted by the Regional Board or State Water Board, including, but not limited to, the State Water Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality Waters in California.

All other terms shall have the same definitions as prescribed by the California Forest Practice Rules as of June 1, 2004, and the Porter-Cologne Water Quality Control Act.

## **SECTION II: STRUCTURE OF ORDER AND APPLICATION PROCEDURES**

This section briefly explains the structure of this Order and application procedures.

### **A. Order Structure**

This Order sets out general WDRs for timber harvest activities conducted on non-federal lands in the North Coast Region. These General WDRs are for Projects that do not qualify for the waiver of waste discharge requirements under Order R1-2004-0016 (Categorical Waiver). Projects that do not qualify, or are denied coverage, under these General WDRs, are required to submit a report of waste discharge for individual WDRs.

These General WDRs set out water quality requirements, specific provisions, required technical reports, and reporting requirements, general conditions and provisions, and termination and denial of coverage. These General WDRs prohibit the discharge of waste to waters of the state in violation of applicable water quality requirements or other provisions of these General WDRs and require the submission of technical reports developed to identify discharge sources and the appropriate management measure(s) to address each source and to set out a time schedule to implement those management measures. Dischargers seeking coverage under these General WDRs must submit an application and a filing fee. An annual fee is required while a Project is covered under these General WDRs.

### **B. Application Procedures**

Generally, the Regional Board receives approved or accepted Project documents from the lead agency, such as CDF. These documents are part of the record for each General WDRs issued. Provided the approved or accepted Project documents are received from the lead agency, the Discharger will not be required to submit a copy to the Regional Board.

1. To seek coverage under these General WDRs, the Discharger shall file an application and filing fee. The application shall consist of (1) a letter requesting coverage under these General WDRs, or a Report of Waste Discharge Form 200 or equivalent document, (2) the approved or accepted Project document when directed by the Executive Officer, (3) the required technical reports (see section III.C.), which may be accepted as clearly delineated sections in the approved Project document, and (4) a filing fee in accordance with the attached fee schedule (Attachment 1). The application shall comply with the signatory requirements contained in section IV.S.
2. Coverage under these General WDRs shall not take effect until: (1) the Discharger's application is determined to be complete; and (2) the Discharger has received written notification from the Executive Officer or the Regional Board stating that coverage under these General WDRs is appropriate, or at least 90 days have passed since CDF's

approval and there is no threat of pollution or nuisance. It is anticipated that Projects which have had thorough Regional Water Board staff involvement in the review and approval process will receive written notification of coverage within ten (10) working days of receipt of a complete application.

3. For an approved Program Timberland Environmental Impact Report (PTEIR), the proponent of each future Program Timber Harvesting Plan (PTHP) shall seek coverage under this Order for each new PTHP.

### **SECTION III: GENERAL WASTE DISCHARGE REQUIREMENTS FOR PROJECTS ON NON-FEDERAL LANDS**

#### **A. Discharge Prohibitions**

1. Discharges of waste, which are not otherwise authorized by waste discharge requirements issued by this Regional Board or the State Water Resources Control Board, to waters of the state are prohibited, except as allowed in section III.A.5.
2. Discharges shall not cause or threaten to cause pollution, contamination, or nuisance.
3. Discharges shall not adversely impact human health or the environment or the beneficial uses of water set out in the Basin Plan.
4. Authorization pursuant to these General WDRs does not constitute an exemption to applicable water quality requirements.
5. Discharges are authorized only where they do not cause or contribute to a violation or exceedance of applicable water quality requirements and are controlled through implementation of appropriate project design and management measures for prevention and minimization of waste discharges.

#### **B. Receiving Water Limitations**

1. Discharges of waste shall not violate or exceed any applicable water quality requirement as these may be modified from time to time pursuant to amendments to water quality control plans adopted by the Regional Board and approved by the State Water Board, and water quality control plans and policies adopted by the State Water Board.
2. The technical reports developed for Projects covered by these General WDRs shall be designed and implemented such that discharges shall not cause or contribute to a violation or an exceedance of any applicable water quality requirements and shall not cause or contribute to a violation of any of the prohibitions of these General WDRs.
3. Should it be determined by the Discharger or the Regional Board that discharges are causing or contributing to a violation or an exceedance of an applicable water quality

requirement or a violation of a General WDR prohibition (above), the Discharger shall:

- a. Implement corrective measures immediately following discovery that applicable water quality requirements were exceeded or a prohibition violated, followed by notification to the Regional Board by telephone as soon as possible but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report within 14 days to the Regional Board, unless otherwise directed by the Executive Officer, that includes:
  1. the date the violation was discovered;
  2. the name and title of the person(s) discovering the violation;
  3. a map showing the location of the violation site;
  4. a description of recent weather conditions prior to discovering the violation;
  5. the nature and cause of the water quality requirement violation or exceedence or General WDR prohibition violation;
  6. photos of the site characterizing the violation;
  7. the management measure(s) currently being implemented;
  8. any maintenance or repair of management measures;
  9. any additional management measures which will be implemented to prevent or reduce discharges that are causing or contributing to the violation or exceedence of applicable water quality requirements or General WDR prohibition violation; and,
  10. The signature and title of the person preparing the report.

This report shall include an implementation schedule for corrective actions and shall describe the actions taken to reduce the discharges causing or contributing to the violation or exceedence of applicable water quality requirements or General WDR prohibition violation.

- b. The Discharger shall revise the appropriate technical report immediately after the report to the Regional Board to incorporate the additional management measures that have been and will be implemented, the implementation schedule, and any additional inspections or monitoring that is needed.
- c. Compliance with the required technical reports and the implementation of required corrective measures shall not prevent the Regional Board from taking enforcement action under any other requirements of this Order.

### C. Specific Provisions

Project sites have the potential to discharge waste for several years while the forest regenerates. Thus, Project planning and erosion prevention or soil stabilization management measures are key components to retain earthen material and other wastes on the Project site. The most efficient ways to address erosion prevention is to limit disturbance, avoid steep or unstable slopes, preserve existing vegetation where feasible,

and to stabilize and re-vegetate exposed areas as soon as possible after land disturbing activities.

To the extent feasible, the Discharger shall design Project features, such as but not limited to, silviculture methods, road alignment, yarding methods, tractor operations and timing of timber harvest activities to prevent waste discharges in amounts that would violate applicable water quality requirements or other provisions of these General WDRs.

The development of the required technical reports will be used as the basis for corrective actions undertaken to control sediment, fuel, and other potential waste discharge sources within the Project area. Designs and corrective actions shall be implemented in the following sequential manner. First, the discharge or threatened discharge of sediment waste shall be prevented through the use of feasible and reasonable adjustments to the project design, scale and rate of disturbance alternatives and sediment control practices. Second, the discharge or threatened discharge of sediment waste that cannot be fully prevented shall be minimized through the use of feasible and reasonable project design alternatives, project timing, and sediment control practices. Project design alternatives, project timing, and control practices shall be designed and implemented to prevent and minimize the discharge of waste to a level that does not violate applicable water quality requirements, and shall be included in the technical reports. If a Project cannot be designed to comply with applicable water quality requirements through prevention and minimization, the Project will be denied coverage under these General WDRs and the Discharger shall submit a Report of Waste Discharge and seek coverage under an individual WDR.

1. Technical Reports

Dischargers shall incorporate the following technical report(s) into the Project as a separate section(s) or submit them with their application when seeking coverage under these General WDRs:

a. Erosion Control Plan

For each Project covered under this Order, an Erosion Control Plan (ECP), as described in section III.D., shall be developed and implemented to prevent and minimize the discharge or threatened discharge of sediment from controllable sediment discharge sources into waters of the state in violate an applicable water quality requirement or other provision of this Order. Sites already covered by formal, existing agreements with the Regional Board design to prevent and minimize discharges do not need to be included in the ECP.

b. Fuel Management Plan

A Fuel Management Plan, as described in section III.E., shall be developed, as applicable, to prevent and minimize the discharge of petroleum products to waters of the state.

2. Other Technical Reports

The Executive Officer may require other technical reports as necessary to determine if the Project warrants coverage under these General WDRs.

3. Inspection Plan and Reporting Program

An Inspection Plan shall be developed to document implementation and effectiveness of management measures used to protect waters of the state for each Project covered by these General WDRs.

If the Executive Officer determines that the Project as described may cause or contribute to a violation of applicable water quality requirements due to for example, including but not limited to, the cumulative impacts of past and planned timber harvest activities, the Discharger will be required to apply for coverage under individual WDRs.

D. Erosion Control Plan

An Erosion Control Plan (ECP) shall be developed and implemented for each Project enrolled under these General WDRs. The ECP shall be developed for the entire Project area, including roads used for timber harvest activities owned by or under the control of the Discharger. The ECP shall be designed to prevent and minimize the discharge or threatened discharge of sediment or other earthen material from controllable sediment discharge sources into waters of the state to the degree necessary to avoid a violation of applicable water quality requirements or other provisions of this Order. Sediment discharge sources include, but are not limited to, failing or failed watercourse crossings, road failures, road surfaces, landslides, unstable features discharging to or near watercourses, unstable watercourse banks, soil stockpiles, storage of sediment, vehicle and equipment storage and service areas, skid trails, landings, exposed harvest units, or any other location discharging sediment or earthen materials. The ECP shall be amended and revised, when necessary, to meet this standard.

1. Contents of an ECP

- a. An inventory of all controllable sediment discharge sources within the Project area, and,
- b. A time schedule, which must be during coverage under General WDRs, for implementation of prevention and minimization management measures.

2. Inventory and Treatment of Controllable Sediment Sources

The on-the-ground inventory of controllable sediment discharge sources will be used to identify the existing or threatened controllable sediment discharge sources within the Project area and provide a time schedule for implementation of prevention and minimization management measures. Any method or model used to develop the inventory shall be briefly described and shall be of demonstrated effectiveness and applicability for the specific sediment discharge sources in the Project area to attain compliance with applicable water quality requirements. Site evaluations are required in

preparing the inventories to fully assess on-the-ground conditions and to facilitate the detection of threatened or existing controllable sediment discharge sources. Sites already covered by formal, existing agreements with the Regional Board design to prevent and minimize discharges do not need to be included in the ECP, but should be briefly described. The inventory shall include:

- a. A brief description of the inventory method(s) and/or model(s) used,
- b. A topographic map, at a scale of 1:12000 or greater (e.g. 1:6000) with no greater than 80' contours, showing the Project boundary and location of all inventoried controllable sediment discharge sources, and
- c. An estimate of the sediment volume and the relative potential for sediment delivery from each inventoried site.

### 3. Implementation Schedule

The development of a Project-wide time schedule for implementation of prevention and minimization management measures will be used to guide corrective actions for the Project area. Prevention and minimization management measures shall be of demonstrated effectiveness and applicability for the specific sediment discharge sources in the Project area to achieve compliance with applicable water quality requirements. The time schedule must be during the time the Project is covered under General WDRs, and provide for timely implementation to prevent and minimize sediment discharge sites in the order of priority. The time schedule will include:

- a. A narrative description of the site-specific prevention and minimization management measure(s) prescribed for each controllable sediment discharge source identified in the inventory, and
- b. A schedule for implementing prevention and minimization management measures for controllable sediment discharge sources. The priority shall be based on the volume of sediment and threat to water quality with the highest priority assigned to the largest sediment discharge sources that discharge to waters that support domestic water supplies or fish.

## E. Fuel Management Plan

The objectives of a fuel management plan are water quality protection from the use and storage of petroleum products and to assure that all State and Federal regulations pertaining to the handling and storage of fuel are adhered to during logging operations. These regulations include the "California Aboveground Petroleum Storage Act with 1991 Amendments" (Cal. Health & Saf. Code, section 25270 et seq.) and the "U.S. Environmental Protection Agency Regulations on Oil Pollution Prevention" (40 CFR 112)

### 1. Applicability

All Projects that make use of petroleum stored in a single tank greater than 1,320 gallons or facilities storing petroleum in aboveground tanks or containers with a cumulative storage capacity of greater than 1,320 gallons. (Cal. Health & Saf. Code, section 25270.2 (k) of the Aboveground Petroleum Storage Act defines certain tanks not subject to the program).



2. Requirement

The Discharge shall prepare and implement a Spill Prevention Control and Countermeasure (SPCC) plan and a copy of the SPCC plan must be maintained at the facility. The SPCC shall require construction and maintenance of impermeable secondary containment.

F. Inspection Plan and Reporting Requirements

For each Project, Dischargers shall develop and implement an Inspection Plan for evaluating the implementation and effectiveness of the management measures in the Erosion Control Plan or other plans that may be developed to prevent and minimize discharges of waste. Inspections shall also be used to determine if any new controllable sediment discharge sources have developed within the Project area.

1. Inspection Plan

The Inspection Plan shall be designed to ensure that all required management measures are installed and functioning prior to rain events, that the management measures were effective in controlling sediment discharge sources throughout the winter period, and that no new controllable sediment discharge sources developed. The Inspection Plan shall include a narrative discussion of the program to inspect and maintain all identified management measures throughout the duration of the Project. A site map that depicts the inspection locations to be visited before, during, and after the winter period shall be included in the Inspection Plan.

Inspections conducted prior to the winter period shall be designed to assure that management measures are properly installed and maintained; winter period inspections should be designed to assure and assess management measure performance and determine if new controllable sediment discharge sources developed; post-winter period inspections should be designed to assure that the management measures have functioned adequately and whether any new controllable sediment discharge sources have developed. Management measures shall be evaluated for adequacy and proper implementation and whether additional management measures are required in accordance with the terms of this Order.

2. Site Inspections

Qualified professionals shall conduct all specified inspections of the Project site to identify areas causing or contributing to a violation of applicable water quality requirements or other provisions of these General WDRs. The name(s) and contact number(s) of the assigned inspection personnel shall be listed in the Inspection Plan. The following inspection requirements shall begin once the startup of timber harvest activities begin within Project areas.

a. Project Areas where Timber Harvest Activities have not yet Commenced

No inspections are required.

b. Project Areas where Timber Harvest Activities have Commenced and No Winter Period Timber Harvest Activities have Occurred

At a minimum, conduct inspections each year and throughout the duration of the Project while Timber Harvest Activities occur and the Project is covered under General WDRs as follows:

1. By November 15 to assure Project areas are secure for the winter; and
2. Once following ten (10) inches of cumulative rainfall commencing on November 15 and prior to March 1, as worker safety and access allows; and
3. After April 1 and before June 15 to assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new controllable sediment discharges sources have developed.

c. Project Areas With Winter Period Timber Harvest Activities

Project areas with timber harvest activities during the winter period shall, at a minimum, conduct inspections of such Project areas while Timber Harvest Activities occur and the Project is covered under General WDRs as follows:

1. Immediately following the cessation of winter period timber harvest activities to assure areas with winter timber harvest activities are secure for the winter;
2. Once following ten (10) inches of cumulative rainfall commencing on November 15 and prior to March 1, as worker safety and access allows; and
3. After April 1 and before June 15 to assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new controllable sediment discharges sources have developed.

d. Inspection reports prepared pursuant to section III.G. shall identify where management measures have been ineffective and when the Discharger will implement repairs or design changes to correct management measure failures.

e. If any new controllable sediment discharge sources are identified, such sites shall be addressed in accordance with the provisions of section III.B.3.

f. Equipment, materials, and workers shall be available for rapid response to failures and emergencies, and implement, as feasible, emergency management measures depending upon field conditions and worker safety for access.

3. Reporting Requirements

If during any inspection or during the course of conducting timber harvest activities, a violation of an applicable water quality requirement or conditions of these General WDRs is discovered, the provisions of section III.B.3. shall be followed.

For all other inspections conducted pursuant to section III.G. where violations are not discovered, the Discharger shall submit a summary report to the Executive Officer by June 30<sup>th</sup> for each year of coverage under these General WDRs or upon termination of

coverage. The summary report shall at a minimum include the date of each inspection, the inspector's name, the location of each inspection, and the title and name of the person submitting the summary report.

4. Public Documents

The technical reports are considered a report that shall be available to the public by the Regional Board.

5. Preparer Certification

The technical reports, any amendments, and inspections reports shall be signed by the Discharger or their duly authorized representative, pursuant to section IV.S., and shall include the date of initial preparation and the date of each amendment.

6. Implementation

The requirements of this section shall be implemented at the time of commencement of the Project. The Discharger is responsible for implementing these requirements until coverage under this Order is terminated or rescinded.

G. Amendments

All amendments to Projects enrolled in the General WDRs shall be reviewed by the Discharger for compliance with the provisions of those General WDRs. The Discharger shall update the ECP, implementation schedule, and inspection plan as necessary to remain consistent with these General WDRs, and submit the updated documents to the Regional Water Board, if updates are necessary, to maintain coverage under these General WDRs. If the approved amendment is found to be out of compliance with these General WDRs, the Discharger shall amend the Project to be consistent with the provisions of the General WDR within 30 days, or coverage under these General WDRs shall be terminated. If enrollment in the General WDRs is terminated, the Discharger shall seek Project coverage under an individual WDR.

## **SECTION IV: GENERAL CONDITIONS AND PROVISIONS**

The following conditions and provisions apply to all Projects seeking coverage under these General WDRs.

A. CEQA Compliance

Any Project seeking coverage under this Order shall be in compliance with CEQA prior to the Executive Officer issuing, authorizing, or otherwise approving coverage under this Order.

B. Inspection and Entry

The Discharger shall allow the Regional Board staff entry onto the affected property, with reasonable notice, for the purposes of observing, inspecting, photographing, video taping,

measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with this Order. If entry is unreasonably withheld, the Executive Officer may terminate the applicability of the Order pursuant to section V.A. of this Order.

The Discharger shall allow Regional Board staff access to copy at reasonable times any records that must be kept under the conditions of these General WDRs.

C. Monitoring and Reporting Requirements

The Discharger shall develop and implement additional monitoring and reporting requirements when directed in writing by the Executive Officer.

D. Proposed Pesticide Applications

For those Projects where application of pesticides is proposed or being considered, the Discharger shall notify the Regional Board in writing at least 45 days prior to any proposed aerial application of pesticides and 30 days prior to any proposed ground-base application of pesticides. The notification shall include the type of pesticide(s), method and area of application, projected date of application, and measures that will be employed to assure compliance with applicable water quality requirements. Subsequent changes to the proposed application must be submitted in writing forthwith, and in no event less than 14 days before the pesticide application, unless Regional Board staff agrees in writing to a lesser notice. This Order does not authorize the application or discharge of pesticides.

E. Nonindustrial Timber Management Plan Notification

For an approved Nonindustrial Timber Management Plan, each future Notice of Timber Operations shall be submitted to the Regional Board five (5) days prior to commencement of timber harvest activities.

F. Compliance with Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Act provides significant penalties for any person who violates a permit prohibition, limitation, or provision. Any person who violates any permit condition of this Order may be subject to a penalty thereunder.

G. Compliance with Eligibility Criteria and Conditions

Notwithstanding any other provision of this Order, the burden is on the Discharger to demonstrate that each finding required for coverage under this general waste discharge requirements can be made, and that each and every term, eligibility criteria and condition has been met. Notwithstanding any other provision of this Order, no general waste discharge requirements coverage shall be valid unless each and every term, eligibility criteria and condition is met.

H. Duty to Comply

The Discharger must comply with all of the conditions of these General WDRs. Any noncompliance constitutes a violation of the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General WDR coverage.

I. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of these General WDRs.

J. Proper Operation and Maintenance

The Discharger shall at all times properly operate and maintain any facilities and systems which are installed or used by the Discharger to achieve compliance with the conditions of these General WDRs and with the requirements of the technical reports. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.

K. Property Rights

These General WDRs does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor does it authorize any infringement of Federal, State, or local laws or regulations.

L. Duty to Provide Information

Upon written request by the Executive Officer, the Discharger shall furnish the Regional Board, within a reasonable time, any requested information to determine compliance with these General WDRs. The Discharger shall also furnish, upon request, copies of records required to be kept by these General WDRs.

M. Anticipated Noncompliance

The Discharger will give advance written notice to the Regional Board of any planned changes in the Project which may result in noncompliance with General WDR requirements.

N. Severability

The provisions of these General WDRs are severable; and, if any provision of these General WDRs or the application of any provision of these General WDRs to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of these General WDRs shall not be affected thereby.

O. Reopener Clause

These General WDRs may be modified, revoked and reissued, or terminated for cause.

P. Availability

A copy of these General WDRs, the technical reports, and monitoring program shall be provided to appropriate operating personnel, including, but not limited to, Registered Professional Foresters, Licensed Timber Operators and monitoring staff. The required technical reports shall remain on the Project site in the possession of appropriate operating personnel while the site is under operations during working hours, commencing with the initial timber harvest activity and ending with termination of coverage under these General WDRs.

Q. Transfers

Enrollment in these General WDRs are not transferable. A new owner of an ongoing Project must submit an application in accordance with the requirements of these General WDRs to be authorized to discharge under these General WDRs. An owner who sells property covered by these General WDRs shall inform the new owner of the duty to file an application and shall provide the new owner with a copy of these General WDRs. Failure to inform the new owner shall not release the selling owner from any potential liability for failure to comply with the terms and conditions of these General WDRs while under the Discharger's control, nor will it release the buyer from any potential liability for failure to apply for coverage under these WDRs, or other provisions of the Porter-Cologne Water Quality Control Act.

R. Required Changes

1. The Discharger shall amend the technical reports whenever there is a change in the Project that may adversely affect receiving waters or ground waters. The technical reports shall also be amended if the Discharger violates any condition of these General WDRs or has not achieved the general objective of preventing and minimizing sediment discharges. Additionally, the ECP shall be updated if new controllable sediment discharge sources are found.
2. The Regional Board or Executive Officer may require the Discharger to amend the technical reports for cause.

S. Signatory Requirements

All applications, Notice of Terminations, technical reports, inspection reports, certifications, and reports prepared in accordance with this Order submitted to the Regional Board shall be signed by the Discharger or their duly authorized representative(s). Duly authorized representatives include registered professional foresters, licensed timber operators, and other licensed professionals hired by the Discharger and responsible for

some portion of the conduct of the timber harvest activities. Irrespective of who signs any required documents, the timberland owner is responsible for compliance with all requirements and these General WDRs.

T. Failure to Obtain Coverage

Dischargers who fail to obtain coverage under this Order or another applicable order will be subject to enforcement under California Water Code (CWC) Section 13264 and other applicable law if their Project results in an un-permitted discharge of waste.

**SECTION V: RESCISSION AND DENIAL OF COVERAGE**

- A. The Executive Officer shall rescind or deny the applicability of these General WDRs to a specific Project if the Executive Officer makes any of the following determinations:
1. The Project does not comply with any provision of these General WDRs;
  2. The Project is reasonably likely to result or has resulted in a violation or exceedence of any applicable water quality requirement;
  3. The Project has varied in whole or in any part from the approved Project in any way that could adversely affect water quality;
  4. Where conditions unique to the watershed or watershed segment (including, but not limited to, cumulative impacts, special hydrographic characteristics, Total Maximum Daily Load standards, the extent of timber harvest activities, intensity of ground disturbing activities, large acreage ownership holdings or management plans, rainfall, slopes, soil, effected domestic water supplies, an increased risk of flooding, or proximity to local, State, or National Parks) warrant further regulation.
  5. Where past land use activities unique to the watershed or watershed segment resulted in the discharge of human generated sediment in amounts which warrant further regulation.
  6. When requested by another state agency, a subdivision of the state (county) or a federal agency, and with concurrence by the Executive Officer.
  7. The Project is the subject of an unresolved non-concurrence filed by the Regional Board staff with CDF.
  8. The Project meets the General WDR conditions, but may still result in discharge that could affect the quality of waters of the state.
- B. Upon receipt of a rescission or denial notice of these General WDRs, the Discharger shall immediately cease all timber harvest activities that may result in unpermitted discharges of waste to waters of the state, other than activities necessary to control erosion. Upon notice of termination or denial, the Discharger must file a report of waste discharge and applicable filing fee for individual, watershed, or ownership-wide WDRs. Timber harvest activities that may result in discharges that could affect the quality of waters of the state may commence only upon enrollment by the Executive Officer under individual or watershed waste discharge requirements, the adoption by the Regional Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or otherwise in accordance with CWC Section 13264(a).

- C. The applicability of this Order to a specific Project is immediately terminated on the receipt of a notice of rescission of applicability or on the effective date of either a categorical waiver of WDRs, an individual waiver of WDRs, individual WDRs, general or watershed WDRs or a NPDES permit that covers or permits the specific Project.

## **SECTION VI: TERMINATION OF COVERAGE**

- A. The Discharger may terminate coverage under these General WDRs for a completed Project by submitting to the Regional Board a Notice of Termination form (NOT). The NOT shall be signed in accordance with section IV.S. Note that a Project is considered complete when the following conditions have been met:
1. Timber harvest activities are completed,
  2. The Project site is stabilized,
  3. There is no potential for waste discharges from the Project in violation of the Basin Plan or these General WDRs.
  4. All elements of the technical reports have been completed,
  5. Earthen materials and waste have been disposed of properly,

The Executive Officer shall review the NOT and determine its appropriateness by assessing Items VI.A.1-5 above. The review may include a field inspection to verify Project completeness. The Executive Officer shall notify the Project proponent regarding approval or disapproval of the NOT.

### **Certification:**

I, Catherine Kuhlman, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on June 23, 2004.

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Catherine Kuhlman  
Executive Officer



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## Region 3: Central Coast

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**ORDER NO. R3-2012-0008**

**GENERAL CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
TIMBER HARVEST ACTIVITIES  
IN THE CENTRAL COAST REGION**

WHEREAS, the California Regional Water Quality Control Board, Central Coast Region (hereinafter Regional Board or Central Coast Water Board) finds that:

1. California Water Code (CWC) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Board a report of waste discharge (ROWD) containing such information and data as may be required by the Regional Board.
2. The Central Coast Water Board prescribes waste discharge requirements except where the Central Coast Water Board finds that a waiver of waste discharge requirements for a specific type of discharge is in the public interest pursuant to CWC (Sections 13267 and 13269).
3. CWC Section 13267 states:
  - (a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.
  - (b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.
4. CWC Section 13269(a) states:
  - (1) On and after January 1, 2000, the provisions of subdivisions (a) and (c) of Section 13260, subdivision (a) of Section 13263, or subdivision (a) of Section 13264 may be waived by the state board or a regional board as to a specific discharge or type of discharge if the state board or a regional board determines, after any necessary state board or regional board meeting, that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The state board or a regional board shall give notice of any necessary meeting by publication pursuant to Section 11125 of the Government Code.

(2) A waiver may not exceed five years in duration, but may be renewed by the state board or a regional board. The waiver shall be conditional and may be terminated at any time by the state board or a regional board. The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based, monitoring, except as provided in paragraph (3) below. Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.

(3) The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.

5. In accordance with CWC Section 13269, the Central Coast Water Board shall regulate discharge of waste associated with timber harvest activities through the requirements of this general conditional waiver, or, for timber operations that are not eligible for this waiver, through individual waste discharge requirements or individual conditional waivers.
6. The Central Coast Water Board has adopted the Water Quality Control Plan for the Central Coastal Basin (Basin Plan), which establishes beneficial uses, water quality objectives, waste discharge prohibitions, and implementation policies that apply to waters of the State and discharges to waters of the State within the Central Coast Region.
7. Pursuant to the Basin Plan and State Board plans and policies, including State Water Board Resolution No. 88-63, the existing and potential beneficial uses of waters potentially affected by the proposed activity include:
  - a. Agricultural Supply (AGR)
  - b. Aquaculture (AQUA)
  - c. Preservation of Biological Habitats of Special Significance (BIOL)
  - d. Cold Freshwater Habitat (COLD)
  - e. Commercial and Sportfishing (COMM)
  - f. Estuarine Habitat (EST)
  - g. Freshwater Replenishment (FRSH)
  - h. Ground Water Recharge (GWR)
  - i. Industrial Service Supply (IND)
  - j. Migration of Aquatic Organisms (MIGR)
  - k. Municipal and Domestic Supply (MUN)
  - l. Navigation (NAV)
  - m. Hydropower Generation (POW)
  - n. Industrial Process Supply (PRO)
  - o. Rare, Threatened, or Endangered Species (RARE)
  - p. Water Contact Recreation (REC-1)
  - q. Non-contact Water Recreation (REC-2)
  - r. Shellfish Harvesting (SHELL)
  - s. Spawning, Reproduction, and Development (SPWN)
  - t. Warm Freshwater Habitat (WARM)

- u. Wildlife Habitat (WILD)
  - v. Inland Saline Water Habitat (SAL)
8. The Basin Plan contains water quality objectives developed to protect the above-listed beneficial uses of water. The factors in CWC Section 13241, including economic considerations, were considered as required by law during the development of these objectives. Prohibitions, provisions, and specifications contained in this Order implement these previously developed water quality objectives. Compliance with water quality objectives should protect the beneficial uses listed in the above paragraph.
  9. The California Department of Forestry and Fire Protection (CalFire) and the California Board of Forestry (BOF) regulate timber harvest activities on nonfederal lands in accordance with the Z'berg-Nejedly Forest Practice Act (Public Resources Code, Section 4511 et seq.) and the California Forest Practice Rules (Title 14, California Code of Regulations, Section 895 et seq.). CALFIRE is the state agency with primary jurisdiction over timber activities. The Central Coast Water Board cannot issue permits to allow timber harvesting, but regulates water quality effects from harvesting operations that have received a permit from CALFIRE. CALFIRE issues such permits by approving timber harvesting plans (THP) or non-industrial timber management plans (NTMP). The Central Coast Water Board does not have legal authority to require an alternative project.
  10. In 1988, the State Water Board:
    - (a) Conditionally certified the Water Quality Management Plan for Timber Operations on Nonfederal Lands, which included those California Forest Practice Rules selected as best management practices and the process by which those rules are administered.
    - (b) Designated CALFIRE and the BOF as joint Water Quality Management Agencies (WQMA).
    - (c) Executed a Management Agency Agreement with CALFIRE and BOF for the purpose of implementing the certified plan and WQMA designations.
  11. The Management Agency Agreement between the State Water Board and CALFIRE/BOF required a formal review of the California Forest Practice Rules and administering processes no later than six years from the date of certification. To date, the State Water Board and CALFIRE/BOF have not completed the review.
  12. The USEPA has not approved the State Water Board's certification of the California Forest Practice Rules and administering processes for regulation of timber harvest activities on nonfederal lands in California.
  13. The Central Coast Water Board, in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) (CEQA), has conducted an Initial Study in accordance with Title 14, California Code of Regulations, Section 15063.
  14. The Secretary of the Resources Agency has certified that CALFIRE's THP regulatory program can function as a substitute for an Environmental Impact Report or a negative declaration (CEQA Guidelines Section 15251.) Registered Professional Foresters submit either a THP or NTMP and only CALFIRE has the authority to grant discretionary approval for projects. CALFIRE considers all the significant environmental effects of the project and makes a finding under CEQA Guidelines section 15091 for each significant effect. If CALFIRE finds that the timber operations will not have a significant effect on the

environment, a THP or NTMP serves as a substitute negative declaration. If CALFIRE finds that the timber operations may have a significant effect on the environment, the THP or NTMP serves as a substitute environmental impact report, and includes mitigation of potential impacts. CALFIRE consults with the Central Coast Water Board as a THP or NTMP is developed. This Waiver Order requires enrolled Dischargers to comply with requirements of the respective THP or NTMP.

15. Relevant factors in determining whether a project covered by a general conditional waiver is in the public interest include the following:

- Whether the discharge is already regulated by another governmental entity.
- Whether the discharger will observe reasonable practices to minimize the deleterious effects of the discharge.
- Whether a feasible treatment method exists to control the pollutants in the discharge.
- Whether a resource agency (California Department of Fish and Game, County of San Mateo, Santa Cruz, Santa Clara, Monterey, San Benito, San Luis Obispo, Santa Barbara, or Ventura) has filed a water quality related non-concurrence with CALFIRE regarding the proposed harvest and that non-concurrence has not been resolved.
- Whether conditionally waiving ROWDs and/or waste discharge requirements will adequately protect beneficial uses while allowing the Central Coast Water Board to utilize more of its scarce resources to conduct field oversight, public outreach and, where necessary, enforcement.

16. The timber harvest plan regulatory program is regulated by CALFIRE and requires the Discharger to implement practices to control water quality effects, including erosion and sedimentation. Local ordinances also require various controls. The conditions of this Order protect beneficial uses by:

- (i) Prohibiting pollution, contamination or nuisance.
- (ii) Requiring monitoring and compliance with applicable water quality control plans.
- (iii) Requiring the Discharger to grant access to Central Coast Water Board staff to perform inspections.
- (iv) Requiring approval of the THP or NTMP by the California Department of Forestry and Fire Protection.

17. The Central Coast Water Board finds that the adoption of the “*General Conditional Waiver of Waste Discharge Requirements - Timber Harvest Activities*” will not have a significant impact on the environment and will be in the public interest provided that dischargers:

- (a) Comply with the conditions of this Order; and
- (b) File with the Central Coast Water Board the applicable eligibility documents as described herein, to demonstrate that compliance with the waiver conditions will be achieved; and
- (c) Comply with applicable State Water Board and Central Coast Water Board plans and policies and as those plans and policies may be amended from time to time through the amendment process.

18. Pursuant to CWC Section 13269, this action waiving the issuance of waste discharge requirements for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Central Coast Water Board from administering enforcement remedies (including civil liability) pursuant to the CWC.
19. A waiver of waste discharge requirements for a type of discharge may be superseded by the adoption by the State Water Board or Central Coast Water Board of specific waste discharge requirements or general waste discharge requirements for that type of discharge.
20. Management practices are the most feasible treatment method to control the discharges. If a proposed timber harvest is conducted in the manner prescribed in the THP or NTMP and the conditions of this Order, a waiver of waste discharge requirements is in the public interest and is consistent with applicable water quality control plans, including the Basin Plan.
21. The winter period for the Central Coast Region shall be October 15 through April 15.
22. The rain year for the Central Coast Region shall be July 1 through June 30.
23. The results from the Eligibility Criteria for a specific THP or NTMP will function as a minimum level for establishing monitoring requirements for that THP or NTMP.
24. The Central Coast Water Board has adopted a Negative Declaration in accordance with CEQA and the CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.). The Negative Declaration concludes that the waiver of waste discharge requirements for specific types of timber harvest operations pursuant to this Order will not have a significant impact on the environment.
25. Copies of the proposed Order and monitoring and reporting plan were transmitted to all agencies and persons known to be interested in this matter according to the applicable provisions of CEQA.
26. The Central Coast Water Board conducted a public hearing on July 12, 2012, in Watsonville, California and considered all testimony and evidence concerning this matter.

**THEREFORE IT IS HEREBY ORDERED:**

1. In accordance with CWC Section 13269, the waste discharges related to timber harvest activities in the Central Coast Region, that are not subject to individual conditional waivers or waste discharge requirements, shall be regulated by general conditional timber harvest waiver requirements, and waste discharge requirements are hereby waived subject to the following conditions:
  - a. "Discharger" means the landowner and anyone working on behalf of the landowner in the conduct of timber harvest activities.
  - b. The Discharger shall submit a Notice of Intent (NOI) on the attached form (Attachment A) or on such other form that the Executive Officer requires. The NOI constitutes a report of waste discharge. This waiver shall not take effect as to a particular timber

operation until the Executive Officer approves the NOI in writing.

- c. The Discharger shall comply with all requirements of applicable water quality control plans as these may be modified from time to time pursuant to amendments to water quality control plans adopted by the Central Coast Water Board and approved by the State Water Resources Control Board (State Water Board) and water quality control plans and policies adopted by the State Water Board.
- d. The Discharger shall obtain CALFIRE approval of a THP and/or NTMP for the timber harvest activities before enrollment in this waiver takes effect. The Discharger shall conduct timber harvest activities in accordance with the approved THP or NTMP and with all applicable sections for the Forest Practice Rules.
- e. Discharger shall notify the Water Board concurrently when submitting a request to CALFIRE for a minor or major amendment.
- f. The Discharger shall obtain and comply with all local, state and federal permits required by law. The Discharger shall comply with all applicable county ordinances related to timber operations, including zoning ordinances.
- g. The Discharger shall not create a condition of pollution, contamination, or nuisance, as defined by CWC Section 13050.
- h. The Discharger shall not discharge any waste not specifically regulated by this Order, except in compliance with CWC Section 13264. Wastes specifically regulated by this Order include: earthen materials including soil, silt, sand, clay, rock and organic materials such as slash, sawdust, or bark. Examples of waste not specifically regulated by this Order include petroleum products, hazardous materials, or human wastes.
- i. The Discharger shall not cause alteration in stream temperature that exceeds Basin Plan requirements.
- j. The Discharger shall allow Central Coast Water Board staff reasonable access, in accordance with Public Resources Code section 4604(b) and California Water Code section 13267, onto the affected property for the purpose of performing inspections to determine compliance with the conditional waiver requirements.
- k. Pursuant to California Water Code Section 13267, the discharger shall comply with Monitoring and Reporting Program No. R3-2012-0008. The Central Coast Water Board needs this information to verify that a general conditional waiver of waste discharge requirements is the appropriate regulatory tool for timber harvest activities in San Mateo, Santa Cruz, Santa Clara, Monterey, San Benito, San Luis Obispo, Santa Barbara, and Ventura counties. This Order does not regulate point-source discharges that require an NPDES permit under the Clean Water Act, including but not limited to silvicultural point-source discharges as defined in 40 CFR Chapter 1 Part 122.27.
- l. The Discharger shall take immediate action to repair failed or faulty management measures, including crossings, culverts, roads and other sources of sediment.

- m. All erosion and sediment control devices, management measures and mitigations prescribed in a THP or NTMP shall be maintained in good working order for the term of the general waiver requirements.
    - n. The Discharger shall comply with all requirements of the Executive Officer pursuant to MRP No. R3-2012-0008.
2. The Central Coast Water Board, based on the above-noted facts and findings, determines that it is not necessary at this time to adopt individual or general waste discharge requirements for waste discharges related to timber harvest activities that meet the conditions specified in this waiver and which are conducted in accordance with the requirements specified in this waiver.
3. This Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC Section 13263.
4. The Executive Officer shall not approve the NOI or shall terminate the applicability of a waiver to specific timber harvest activities (as applicable) if the Executive Officer makes any of the following determinations:
  - a. The timber harvest activity is not in compliance with any applicable condition of this waiver.
  - b. The timber harvest activity has varied in whole or in any part from the approved THP or NTMP, unless these changes result in better protection of water quality.
  - c. The timber harvest activity is likely to adversely affect the quality or beneficial uses of waters of the State. In making this determination, the Executive Officer shall consider, at a minimum, the THP or NTMP, information from the pre-harvest inspection or other site inspections, the Notice of Intent, the Eligibility Criteria, and all available monitoring reports.
5. Upon receipt of notice of termination of applicability of the waiver, the Discharger shall immediately cease all timber harvest activities that may result in waste discharges to waters of the State, other than activities necessary to control erosion. Upon notice of termination, the Discharger must file a report of waste discharge and applicable filing fee. Timber harvest activities that may result in discharges that could affect the quality of waters of the State may commence only upon enrollment by the Executive Officer under general waste discharge requirements, the adoption by the Central Coast Water Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with CWC Section 13264(a).
6. This general conditional waiver shall become effective on July 12, 2012, and shall expire on July 12, 2017, unless terminated or reissued by the Central Coast Water Board. The Central Coast Water Board may terminate this waiver at any time, either as to a particular timber harvest or in its entirety.
7. Conditional Waiver Order No.R3-2012-0007 is hereby rescinded.
8. As provided by CWC Section 13350(a), any person who, in violation of any waiver condition, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, is subject to administrative or civil liability for the violation.



9. Any person affected by this action of the Central Coast Water Board may petition the State Water Board to review the action in accordance with section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Coast Region on July 12, 2012.

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Roger W. Briggs, Executive Officer

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## Region 5: Central Valley

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION**

**ORDER NO. R5-2014-0144**

**RENEWAL OF CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES RELATED TO TIMBER HARVESTING ACTIVITIES**

The California Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) finds that:

1. California Water Code (Water Code) section 13260, subdivision (a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate regional water board a report of waste discharge containing such information and data as may be required by the board and the first annual fee applicable to waste discharge requirements, unless the State Water Board or Central Valley Water Board waives such requirement.

2. Water Code section 13269, subdivision (a) provides that a regional water board or the State Water Resources Control Board (State Water Board) may waive the requirements to submit a report of waste discharge and to obtain waste discharge requirements as to a specific discharge or specific type of discharge, if the board determines that the waiver is consistent with any applicable water quality control plan and such waiver is in the public interest. Water Code section 13269 further provides that any such waiver of waste discharge requirements shall be conditional, may not exceed five years in duration, and may be terminated at any time by the board.

3. Water Code section 13269 includes the following provisions:

The waiver shall include the performance of individual, group, or watershed-based monitoring, unless the board determines that the discharges do not pose a significant threat to water quality.

Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors.

Monitoring results must be made available to the public.

4. The Central Valley Water Board, issued a conditional waiver of waste discharge requirements for discharges related to timber harvesting activities in the Central Valley Region on January 30, 2003 (Waiver), and renewed the Waiver on January 27, 2005 and April 28, 2005. On March 18, 2010, the Central Valley Water Board issued Order R5-2010-0022, which renewed the Waiver until March 31, 2015.

5. Water Code section 13269 authorizes the Central Valley Water Board to include as a condition of a waiver the payment of an annual fee established by the State Water Board. At the time of this hearing the State Water Board has not established annual fee regulations with respect to waivers of waste discharge requirements for timber harvesting activities. On September 19, 2012 PRC 4629.6(c) established that no currently authorized or required fees shall be charged by the regional boards for activities or costs associated with the review of a project, inspection and oversight of projects, and permits necessary to conduct timber operations.

6. The Central Valley Water Board has adopted the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (4<sup>th</sup> Edition 1998) and the Water Quality Control Plan for the Tulare Lake Basin (2<sup>nd</sup> Edition 1995) (Basin Plan), including subsequent amendments, that establishes beneficial uses, water quality objectives, waste discharge prohibitions, and implementation policies that apply to waters of the state and discharges to waters of the state within the Central Valley Region.

7. Pursuant to the Basin Plan and State Board Plans and Policies, including State Water Board Resolution 88-63, the existing and potential beneficial uses of waters in the Central Valley Region include:

- a) Agricultural Supply (AGR)
- b) Aquaculture (AQUA)
- c) Preservation of Biological Habitats of Special Significance (BIOL)
- d) Cold Freshwater Habitat (COLD)
- e) Commercial and Sportfishing (COMM)
- f) Estuarine Habitat (EST)
- g) Freshwater Replenishment (FRSH)
- h) Ground Water Recharge (GWR)
- i) Industrial Service Supply (IND)
- j) Migration of Aquatic Organisms (MIGR)
- k) Municipal and Domestic Supply (MUN)
- l) Navigation (NAV)
- m) Hydropower Generation (POW)
- n) Industrial Process Supply (PRO)
- o) Rare, Threatened, or Endangered Species (RARE)
- p) Water Contact Recreation (REC-1)
- q) Non-contact Water Recreation (REC-2)
- r) Shellfish Harvesting (SHELL)
- s) Spawning, Reproduction, and Development (SPWN)
- t) Warm Freshwater Habitat (WARM)
- u) Wildlife Habitat (WILD)

8. The Basin Plan contains water quality objectives developed to protect the above-listed beneficial uses of water. Eligibility criteria, Prohibitions, and Conditions contained in this Order implement these water quality objectives. Compliance with water quality objectives will protect the beneficial uses listed in the above paragraph.

9. In 1981, the State Water Board: (a) certified a plan entitled "Water Quality Management for National Forest System Lands in California" that was developed and submitted by the United States Department of Agriculture, Forest Service (U.S. Forest Service); (b)

designated the U.S. Forest Service as the Water Quality Management Agency (WQMA) for specified activities on National Forest System lands in California that may result in non-point source discharges, including timber management, vegetative manipulation, fuels management, road construction and watershed management; and (c) executed a Management Agency Agreement with the U.S. Forest Service for the purpose of implementing the certified plan and WQMA designation.

10. Pursuant to Section 208 of the federal Clean Water Act, the United States Environmental Protection Agency (USEPA) has approved the State Water Board's certification of the U.S. Forest Service water quality management plan, and the State Water Board's certification of the practices therein as "best management practices" (BMPs).

11. The Management Agency Agreement between the State Water Board and the U.S. Forest Service contemplates that the Central Valley Water Board will waive issuance of waste discharge requirements for U.S. Forest Service timber harvest activities that may result in non-point source discharges, provided that the U.S. Forest Service designs and implements its projects to fully comply with state water quality standards.

12. The California Department of Forestry and Fire Protection (CAL FIRE) and the California Board of Forestry (BOF) regulate timber harvesting activities on nonfederal lands in accordance with the Z'berg-Nejedly Forest Practice Act (Public Resources Code, Section 4511 et seq.) and the California Forest Practice Rules (Title 14, California Code of Regulations, Section 895 et seq.).

13. In 1988, the State Water Board: (a) conditionally certified the "Water Quality Management Plan for Timber Operations on Nonfederal Lands" which included those California Forest Practice Rules selected as BMPs and the process by which those rules are administered; (b) designated CAL FIRE and the BOF as joint WQMAs; and (c) executed a Management Agency Agreement with CAL FIRE and BOF for the purpose of implementing the certified plan and WQMA designations.

14. The Management Agency Agreement between the State Water Board and CAL FIRE/BOF required a formal review of the California Forest Practice Rules and administering processes no later than six years from the date of certification. To date, that review has not occurred.

15. The USEPA has not approved the State Water Board's certification of the California Forest Practice Rules and administering processes for regulation of timber harvesting activities on nonfederal lands in California.

16. The Waiver includes conditions in addition to the requirements of the Forest Practice Rules to assure that timber harvesting activities will be protective of waters of the state. These conditions include: discharger compliance with all provisions of the Basin Plans, more stringent criteria to qualify for Category 1 (de minimus activities), Mandatory Equipment Limitation Zone for Class III and IV watercourses, mandatory retention of shade trees, notification of pesticide applications, hiring a registered civil engineer when certain conditions exist (Attachment A, Category 4, Eligibility Criteria), and must follow recommendations made by the Central Valley Water Board staff during pre-harvest inspections.

17. State Water Board Resolution 68-16 ("Statement of Policy with Respect to

Maintenance of High Quality Waters in California”) requires the Central Valley Water Board to regulate discharges of waste to waters of the state to achieve highest water quality consistent with maximum benefit to the people of the state. It further requires that the discharge meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state will be maintained. This Waiver is consistent with Resolution 68-16 because it requires compliance with applicable water quality control plans, prohibits the creation of pollution or nuisance, and sets forth conditions that require dischargers to implement additional management practices (beyond those required in the Forest Practice Rules and U.S. Forest Service BMP guidance manuals) to assure protection of beneficial uses of waters of the state and maintain the highest water quality consistent with maximum benefit to the people of the state.

18. On October 8, 2013, PRC Article 7.7 (commencing with Section 4597) established a new type of timber harvesting permit. This new permit will allow non-industrial landowners of 15,000 acres or less to harvest timber via a non-expiring permit. The California Board of Forestry is required to develop the process for the new Working Forest Management Plan (WFMP) and implement it by January 2016. The Central Valley Water Board recognizes the need to revise or replace the Conditional Waiver once the Board of Forestry has adopted the WFMP regulations, and has chosen to renew this waiver until revisions or a replacement permit can be developed to address the WFMP.

19. The Central Valley Water Board, acting as the lead agency for this project under the California Environmental Quality Act (Public Resources Code, section 21000 et seq.) (CEQA), conducted an Initial Study in 2002 in accordance with Title 14, California Code of Regulations (CCR), section 15063.

20. The Central Valley Water Board adopted a negative declaration pursuant to CEQA on January 30, 2003 when it issued the Waiver. This action to renew the Waiver does not require preparation of a subsequent or supplemental environmental document pursuant to Title 14 California Code of Regulations (CCR) sections 15162 or 15163. There is no evidence to indicate that substantial changes are proposed for the project, that substantial changes have occurred with respect to the circumstances of the project, or that there is new information of substantial importance with respect to the project, as described in section 15162, subdivision (a). In addition, it can be seen with certainty that there is no possibility that the renewal may have a significant effect on the environment. (Cal. Code of Regs., tit. 14, section 15061, subd. (b)(3).)

21. The Waiver (Attachment A) is in the public interest as described below:

- (a) Timber harvesting activities are primarily regulated by other agencies, including CAL FIRE and the U.S. Forest Service. The Central Valley Water Board does not approve timber harvests, but it does have authority to require compliance with the California Water Code.
- (b) Without the Waiver, timber harvesting activities would continue under authority of those other agencies, but such activities may not be subject to appropriate conditions protective of water quality.
- (c) Without the Waiver, the Central Valley Water Board could regulate a smaller percentage of timber harvesting activities in the Region due to limited staff

resources, but with the Waiver, timber harvesting activities acting pursuant to the Waiver are subject to enforceable conditions.

- (d) The Waiver contains conditions that require compliance with the applicable Basin Plan, including applicable water quality objectives.
- (e) The Waiver contains conditions requiring compliance with monitoring and reporting programs that will assist in the protection of water quality and in verification of the adequacy and effectiveness of Waiver conditions.
- (f) Compliance with the conditions of the Waiver will result in protection of water quality.
- (g) The Waiver does not approve of or authorize a condition of pollution or nuisance.
- (h) The Waiver conditions are subject to enforcement pursuant to Water Code section 13350 in the same way as enforcement of waste discharge requirements.
- (i) Given the available Central Valley Water Board staff resources, the Waiver is an effective mechanism to regulate a large number of potential discharges and allows staff to maximize its field presence.
- (j) The Waiver allows staff to continue to participate in the pre-harvest review of proposed timber activities which provides staff the ability to require implementation of protective measures beyond those required by CAL FIRE and the U.S. Forest Service for the most critical timber operations.
- (k) The State Water Board, on January 22, 2004 and in Order No. WQO 2004-0002, affirmed the Central Valley Water Board Waiver and stated: "The Waiver includes specific criteria to ensure compliance with requirements of the Basin Plan and to prevent discharges that may substantially impact water quality. Further, the Regional Board's actions were consistent with State Board policies and procedures and the terms of the Waiver do not exceed the Regional Board's statutory authority."
- (l) The Waiver has been in effect since 2003, and based on the Central Valley Water Board's experience, the Waiver has resulted in increased use of management practices to protect waters of the state such as the inclusion of staff recommendations during field review of timber harvesting plans and the inclusion of additional management practices in submittals not field-reviewed by staff.
- (m) The MRP has been in effect since mid-2005, and based on the Central Valley Water Board's experience, the MRP has resulted in accelerated application of management practices to protect waters of the state once failures or potential failures have been identified.
- (n) The Waiver, given limited Central Valley Water Board staff resources, provides a framework that most effectively utilizes resources to regulate discharges of wastes.

22. The Waiver is consistent with applicable water quality control plans as it requires compliance with the Basin Plan, including applicable water quality objectives, prohibits the creation of pollution or nuisance, and includes eligibility criteria and conditions to protect waters of the state.

23. The Waiver requires compliance with monitoring conditions consistent with the amendments to Water Code section 13269.

24. As described in the administrative record, the adoption of individual waste discharge requirements for all timber harvesting activities in the Central Valley Region is not feasible at this time. The Central Valley Water Board receives for review more than 2000 timber harvest documents annually. Given the number of Central Valley Water Board staff and other factors, including the timing of the CAL FIRE timber harvest approval process and the time needed to adopt waste discharge requirements, it is not feasible for the Central Valley Water Board to adopt so many individual waste discharge requirements in a year. General waste discharge requirements on, for example, a watershed-by-watershed approach, would also take a significant amount of time given the large number of watersheds and sub-watersheds in the Region. Thus, without the Waiver, most timber harvesting activities would not be subject to any regulation under the California Water Code. Waste discharge requirements do not provide identifiable benefits over this Waiver because the Waiver contains essentially the same conditions that would be included in waste discharge requirements, such as the requirement to comply with water quality control plans, and the Waiver is enforceable to the same extent as waste discharge requirements. The adoption of waste discharge requirements, however, is not precluded because pursuant to Water Code section 13269, a waiver may be terminated at any time with or without cause.

25. The Central Valley Water Board has given notice of the renewal of the Waiver to all known dischargers and other interested persons.

26. The Central Valley Water Board conducted a public hearing on December 4, 2014, in Rancho Cordova, California, and considered all testimony and evidence concerning this matter.

**IT IS HEREBY ORDERED:**

1. Based on the findings set forth in this Order and the administrative record for this matter, the Central Valley Water Board finds that the renewal of the Waiver as set forth in the Attachments to this Order, which contain eligibility criteria, prohibitions, and conditions to assure consistency with applicable water quality control plans, and monitoring conditions, is in the public interest.

2. The Central Valley Water Board, based on findings set forth in this Order and the administrative record for this matter, including the information contained in the adopted Negative Declaration, finds that the renewal of the Waiver as set forth in the Attachments to this Order will not have a significant impact on the environment.

3. The Central Valley Water Board finds that the "Monitoring and Reporting Conditions" for dischargers seeking enrollment under the Waiver as set forth in Attachment B and the "Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2014-0144 in Attachment C are consistent with Water Code section 13269, subdivision (a)(2).

4. The Central Valley Water Board, based on the findings set forth in this Order and the administrative record, finds that it is not necessary at this time to adopt individual or general waste discharge requirements for waste discharges related to timber harvesting activities that meet the eligibility criteria specified in the Waiver and which are conducted in accordance with the conditions specified in the Waiver.



5. The Central Valley Water Board, based on the findings set forth in this Order and the administrative record for this matter, hereby conditionally waives the requirement to obtain waste discharge requirements as set forth in Attachment A; waives the requirement to submit a report of waste discharge for Waiver Categories 1, 2 and 5; and adopts the "renewed" Waiver as set forth in Attachment A, the General Monitoring and Reporting Conditions as set forth in Attachment B, and the Implementation, Effectiveness and Forensic Monitoring and Reporting Program as set forth in Attachment C.

6. Dischargers currently enrolled under the Waiver shall continue to be covered under the Waiver, without re-enrolling.

7. The discharge of any waste not specifically regulated by the Waiver is prohibited unless the discharger complies with Water Code section 13260, subdivision (a) and the Central Valley Water Board either issues waste discharge requirements pursuant to Water Code section 13263 or an individual waiver pursuant to Water Code section 13269 or, in the case of a discharge that does not create or threaten a condition of pollution or nuisance, the time frames in Water Code section 13264, subdivision (a) have lapsed.

8. This Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in Water Code section 13263.

9. Pursuant to Water Code section 13269, this action waiving the issuance of waste discharge requirements for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Central Valley Water Board from administering enforcement remedies (including civil liability) pursuant to the California Water Code.

10. The Central Valley Water Board may review the Waiver at any time and may modify or terminate the Waiver in its entirety or for individuals, as appropriate. The Executive Officer or Central Valley Water Board may terminate the applicability of the Waiver described herein to any timber harvesting activities at any time.

11. In compliance with Water Code section 13269, the Executive Officer will continue to implement a program to evaluate compliance with the conditions pursuant to which waste discharge requirements are waived by this Order.

12. As part of the Waiver compliance effort, Central Valley Water Board staff will meet periodically with major stakeholders, including environmental groups, to address water quality related issues on a watershed basis.

13. A waiver of waste discharge requirements for a type of discharge may be superseded by the adoption by the Central Valley Water Board of specific waste discharge requirements or general waste discharge requirements for that type of discharge, or by an action of the State Water Board.

14. This renewed Waiver (Attachments A and B and Monitoring and Reporting Program No. R5-2014-0144) shall become effective on March 31, 2015, and shall expire on March 31, 2018, unless terminated or renewed by the Central Valley Water Board.

15. As provided by Water Code section 13350, subdivision (a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance.

16. The Executive Officer shall make any minor, non-substantive amendments necessary to make this Order consistent with the changes adopted by the Central Valley Water Board at the hearing.

I, Pamela C. Creedon, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Central Valley Water Quality Control Board, Central Valley Region, on December 4, 2014.

Original signed by

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PAMELA C. CREEDON, Executive Officer

**ATTACHMENT A  
WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES RELATED TO  
TIMBER HARVESTING ACTIVITIES  
PURSUANT TO  
CALIFORNIA WATER CODE SECTION 13269**

California Water Code (Water Code) section 13269 authorizes the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) to waive the requirement to submit reports of waste discharge and to waive the issuance of waste discharge requirements as to a specific discharge or type of discharge if the waiver is consistent with any applicable state or regional board water quality control plan and the waiver is in the public interest. Such waiver must be conditional, may not exceed five years in duration, and may be terminated at any time.

The Central Valley Water Board, on 30 January 2003 adopted Resolution No. R5-2003-0005, which included an Attachment A; "Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities" (Waiver). The Central Valley Water Board, on 28 April 2005 adopted Resolution No. R5-2005-0052, which renewed the conditional waiver for discharges related to timber harvesting activities for a term of 5 years, revised Attachment A, and added Attachments B "Monitoring and Reporting Conditions for Dischargers Enrolled Under the Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities Pursuant to California Water Code Section 13269" and C "Implementation, Forensic and Effectiveness Monitoring and Reporting Program Order No. R5-2010-0022 for Individual Dischargers Under Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities". The Central Valley Water Board, on 18 March 2010 adopted Order R5-2010-0022, which renewed the Waiver and Attachments A, B and C for an additional 5 years.

Subject to the conditions set forth below, the Central Valley Water Board waives the requirement to submit a report of waste discharge or to obtain waste discharge requirements for the categories of waste discharges specified in Part II, Category Specific Conditions below related to timber harvesting activities, provided that the following actions for nonfederal timber lands and for federal timber lands managed by the U.S. Forest Service continue in effect.

1. For nonfederal timber lands: The State Water Resources Control Board (State Water Board) continues to certify the "Water Quality Management Plan for Timber Operations on Nonfederal Lands in California," including those California Forest Practices Rules selected by the State Water Board as "best management practices," and continues the designation of the California Board of Forestry and Fire Protection (BOF) and the California Department of Forestry and Fire Protection (CAL FIRE) as the joint management agencies for implementation of the Water Quality Management Plan for timber operations on nonfederal lands in California.
2. For federal timber lands managed by U.S. Forest Service:
  - a. The State Water Board continues to certify and the U.S. Environmental Protection Agency continues to approve, pursuant to Section 208 of the federal Clean Water Act, the plan entitled "Water Quality Management for National Forest System Lands in California" including the best management practices set forth therein, and the designation of the U.S. Forest Service as the management agency.

- b. The U.S. Forest Service maintains: (a) a water quality program consistent with the Basin Plan and consistent with the requirements of all other applicable water quality control plans; and (b) a program to monitor the implementation and effectiveness of best management practices.

For Dischargers eligible for coverage under the Waiver, the Regional Board also waives the requirement to submit a report of waste discharge, provided the Discharger submits all required eligibility documents and meets all applicable conditions of this Waiver.

## **I. GENERAL WAIVER CONDITIONS**

### **A. Definitions**

1. "Timber Harvesting Activities" means all activities on timberland relating to timber harvesting, including the cutting or removal, or both, of timber and other solid wood forest products, from timberlands for commercial purposes, together with all the work incidental thereto, including, but not limited to, construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, beds for the falling of trees, fire hazard abatement, site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, but excluding preparatory treemarking, surveying or roadflagging. The term "commercial purposes" includes the cutting or removal of trees which are processed into logs, lumber, or other wood products and offered for sale, barter, exchange, or trade, or the cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber, including but not limited to residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects, and transportation projects.
2. "Discharger" means the timberland owner and anyone working on behalf of the timberland owner in the conduct of timber harvesting activities for nonfederal lands, and the U.S. Forest Service, private timber operators operating on federal lands, and anyone working on behalf of the U.S. Forest Service or a timber operator in the conduct of timber harvesting activities on federal lands.
3. "Plan" means any Timber Harvesting Plan (THP), Nonindustrial Timber Management Plan (NTMP), or other discretionary permit issued by CAL FIRE to harvest timber, including all amendments thereto that propose a change in timber harvesting activities that may increase the discharge or otherwise pose the potential for increased impacts to water quality. (For example, amendments that propose to add, expand, or extend winter operations shall be considered a "Plan" for purposes of this Waiver. Amendments that do not propose any material change in how or where timber harvesting activities will be conducted, such as a change in timber operator, a time extension from CAL FIRE, etc., shall not be considered a "Plan" for purposes of this Waiver.)
4. "Requirement of applicable water quality control plans" means a water quality objective, prohibition, TMDL implementation plan, or other requirement contained in water quality control plans adopted by the Central Valley Water Board and approved by the State Water Board, and plans or policies adopted by the State Water Board that apply to the timber harvesting activities.

5. "Monitoring" refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions, including but not limited to, implementation, effectiveness, forensic, water quality compliance, assessment and trend monitoring, and Waiver compliance monitoring undertaken in connection with timber harvesting activities.
6. All other terms shall have the same definitions as prescribed by the California Forest Practice Rules and the Porter-Cologne Water Quality Control Act, unless specified otherwise.

**B. General Conditions for Waiver Categories 1 through 5**

1. The discharger must comply with all requirements of applicable water quality control plans, and as these may be modified from time to time pursuant to amendments to water quality control plans adopted by the Central Valley Water Board and approved by the State Water Board, and water quality control plans and policies adopted by the State Water Board; and
2. The discharger shall conduct timber harvesting activities in accordance with the approved Plan or CAL FIRE-accepted Exemption or Emergency Notice for nonfederal timberlands; or in accordance with the final environmental document and decision document prepared pursuant to the National Environmental Policy Act (NEPA) for timber harvesting activities on federal lands managed by the U.S. Forest Service; and
3. The discharger shall not create a condition of pollution, contamination, or nuisance, as defined by Water Code section 13050; and
4. The discharger shall not discharge any waste not specifically regulated by the Waiver described herein and shall not cause alteration in stream temperature which exceeds water quality control plan requirements. Waste specifically regulated under this waiver includes: earthen materials, including soil, silt, sand, clay, rock; organic materials, such as slash, sawdust, or bark; and silvicultural pesticides that enter or threaten to enter into waters of the state. Examples of waste not specifically regulated under this Waiver include petroleum products, hazardous materials, or human wastes; and
5. The discharger shall allow Central Valley Water Board staff reasonable access onto the affected property whenever requested by Central Valley Water Board staff for the purpose of performing inspections and conducting monitoring, including sample collection, measuring, and photographing/taping to determine compliance with waiver conditions. Such inspections and monitoring shall be conducted consistent with Water Code section 13267, subdivision (c), Public Resources Code section 4604, subdivision (b)(1), and other applicable law; and
6. Any person seeking coverage under this Waiver shall file the applicable eligibility document(s) and fees as described herein with the Central Valley Water Board. Dischargers shall file any additional eligibility documents

required by the Executive Officer, which may include a State Water Board Form 200; and

7. Unless other timeframes are specified, discharges associated with timber harvesting activities and pesticide applications that comply with the eligibility criteria, conditions, and procedures for a waiver may commence upon receipt by the Central Valley Water Board of the applicable documents as described in Part II – Category Specific Conditions, including acknowledgement of the Monitoring Conditions described in Attachment B; and
8. This Waiver does not apply to discharges requiring an NPDES permit under the Clean Water Act, including silvicultural point sources as defined in 40 CFR 122.27.

## **II. CATEGORY-SPECIFIC CONDITIONS**

### **A. CATEGORY 1: MINOR TIMBER HARVESTING ACTIVITIES ON NONFEDERAL LANDS (including certain activities approved by CAL FIRE under Exemption or Emergency Notices, Timber Harvesting Plans, other Plans, or Amendments).**

#### **1. Eligibility Criteria:**

- a. Timber harvesting activities (Notices of Exemption or Emergency) within 150 feet of existing structures (i.e., “FireSafe” treatments), harvest of Christmas trees, dead, dying or diseased fuelwood or split products, public agency, public and private utility right of way, fuel hazard reduction, substantially damaged timberland unmerchantable as sawlog and woody debris and slash removal, that are conducted pursuant to a Notice of Exemption accepted by CAL FIRE under 14 California Code of Regulations (CCR) section 1038, subdivision (c), will automatically be enrolled in the Waiver.
- b. Timber harvesting activities, other than the notices of exemption or emergency specified in (II)(A)(1)(a) above, that comply with the following criteria:
  1. No timber harvesting activities on slopes greater than 60%.
  2. No tractor or heavy equipment operations on slopes greater than 50%.
  3. No construction of new tractor roads on slopes greater than 40%.
  4. No timber harvesting activities within any Special Treatment Area “type a” or “type c,” as defined in 14 CCR 895.1, except hauling over existing roads that complies with the rules associated with that Special Treatment Area.
  5. No tractor or heavy equipment operations on known slides or unstable areas.
  6. No new construction or reconstruction, as defined in 14 CCR 895.1, of logging roads, landings, or watercourse crossings.
  7. No timber harvesting activities within the standard width of a Watercourse and Lake Protection Zone or Equipment Limitation Zone, as defined in 14 CCR 916.4 [936.4, 956.4](b) and (c), except for use and maintenance of existing permanent roads, use of existing bridges and existing culverts as skid trail crossings, and maintenance of associated drainage facilities or structures.

8. No timber harvesting activities that may disturb, threaten, or damage known or potential aquatic or wetland habitat for rare, threatened or endangered plants or animals.
9. No timber harvesting activities within the buffer zone of a sensitive species, as defined in 14 CCR 895.1.
10. No timber harvesting activities on soils with High or Extreme Erosion Hazard Rating.
11. No heavy equipment operation in meadows or wet areas, except use and maintenance of existing roads and associated drainage facilities or structures.
12. No timber harvesting activities during the winter period from October 15 through May 1 or under saturated soil conditions as defined in 14 CCR 895.1 where such activities may result in discharge of waste to waters of the state.
13. No timber harvesting activities involving mechanical site preparation, as defined in 14 CCR 895.1. (Timberland Conversions excepted)
14. No timber harvesting activities involving prescribed burning. (Timberland Conversions excepted)
15. No timber harvesting activities that do not meet minimum stocking requirements immediately upon completion of harvest, as defined in 14 CCR 912.7 [932.7, 952.7]. (Timberland Conversions excepted)
16. No timber harvesting activities that include, are accompanied by, or followed by post-harvest applications of pesticides.

2. **Conditions:**

- a. The discharger shall comply with the General Conditions described in Part I.B., above.
- b. The Central Valley Water Board receives: (1) a copy of a Plan approved by CAL FIRE, or an Notice of Exemption or Emergency accepted by CAL FIRE, that includes all of the above eligibility criteria, and (2) a Certification Notice, signed by the landowner, certifying that the timber harvesting activities will comply with the eligibility criteria and conditions for Waiver Category 1, received within 15 days from notice acceptance by CAL FIRE and prior to the start of operations, or at least 30 days prior to the start of operations for a Plan. A Certification Notice is not required for Notices of Exemption and Emergency that meet the eligibility criteria described in Part II A.1.a. above.
- c. The discharger shall comply with all conditions specified in Attachment B, "Monitoring Conditions." Agency Monitoring will be sufficient for this Category providing the discharger complies with CAL FIRE Forest Practice Rules and the criteria specified in Part II A.1.b. above.

**B. CATEGORY 2: EXEMPT OR EMERGENCY TIMBER HARVESTING ACTIVITIES ON NONFEDERAL LANDS THAT DO NOT QUALIFY FOR WAIVER UNDER CATEGORY 1.**

1. **Eligibility Criteria:** Timber harvesting activities that comply with the following criteria as identified in the Notice of Exemption or Notice of Emergency accepted by CAL FIRE, for Less Than 3 Acre Conversion Exemptions and Notices of Emergency Timber Operations related to fire salvage:

a. The Registered Professional Forester (RPF), after conducting a comprehensive field review of proposed timber activities, has specifically identified the presence or absence of any of the following features or conditions in, or affected by, the proposed exempt or emergency timber harvesting activities:

aquatic or wetland habitat for salmonids or rare, threatened or endangered species,  
domestic or municipal water use within one mile downstream of the harvest area,  
soils with high or extreme erosion hazard rating,  
known slides and unstable areas, including unstable or erodible watercourse banks,  
changeable channels, overflow channels, inadequate flow capacity, flood prone areas, riparian areas, elevated stream temperatures,  
all watercourse crossings, including existing crossings and those to be constructed or reconstructed for all Class I-IV watercourses, and existing and proposed near-stream landings and skid trails.

b. For those Plans where aquatic or wetland habitat for rare, threatened or endangered species is identified and where timber harvesting activities may impact such habitat, additional field review has been conducted by a scientist, with a bachelor's or advanced degree in biological sciences and experience in aquatic systems, to determine if the Plan could adversely affect such species or their habitat.

c. The Notice of Exemption or Notice of Emergency identifies any additional management practices and/or water quality protective measures (beyond the requirements of the current Forest Practice Rules) to address, at a minimum, the features and conditions described in Part II.B.1.a. above (should any exist), winter period operations between October 15 and May 1, and cumulative watershed effects, to assure compliance with the requirements of applicable water quality control plans. The Notice of Exemption or Notice of Emergency incorporates any and all project modifications and mitigation measures recommended by the biological scientist to avoid adverse impacts to rare, threatened or endangered species.



- d. The management practices and water quality mitigation and protective measures specified in the Notice pursuant to subsection "c" above shall include, at minimum, the following: (1) An Equipment Limitation Zone (ELZ) for any and all Class III and Class IV watercourses of at minimum 25 feet where sideslope steepness is less than 30%, and at minimum 50 feet where sideslope steepness is 30% or greater; (2) Any and all crossing facilities on watercourses that support fish will be installed and maintained so as to allow for unrestricted passage of fish and water during all life stages and flow conditions; (3) Any and all culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures concurrently with fill placement; (4) Any and all permanent watercourse crossings and associated fills and approaches shall be installed and maintained to prevent diversion of stream overflow down the road and to minimize erosion of the fill and road prism should the drainage structure become obstructed; (5) Any and all riparian vegetation, other than commercial species, that is found along watercourses and lakes or that is found within or bordering meadows and wet areas shall be retained and protected during timber harvesting activities; and (6) Where seasonal water temperatures are too high to fully support beneficial uses of water in Class I or II waters within or downstream from the logging areas, no trees that provide shade to the waters during critical hours during the summer period shall be cut.

2. **Conditions:**

- a. The Central Valley Water Board receives: (1) a copy of a Notice of Exemption or Notice of Emergency accepted by CAL FIRE that includes the information required by Part II.B.1.a. through d., above, and (2) a Certification Notice, signed by the landowner, certifying that the timber harvesting activities will comply with all conditions applicable to Waiver Category 2, received within 15 days of notice acceptance by CAL FIRE and prior to the start of operations.
- b. The discharger shall comply with the General Conditions described in Part I.B., above.
- c. The discharger shall notify the Central Valley Water Board in writing at least 60 days prior to any proposed aerial application and 30 days prior to any proposed ground application of pesticides. The written notification shall include the type of pesticide, the proposed date(s) of application, the method and area of application, and measures that will be employed to assure compliance with all applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- d. The discharger shall comply with all conditions specified in Attachment B, "Monitoring Conditions." The discharger shall comply with all applicable requirements of the Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2014-0144. The discharger shall comply with additional monitoring and reporting program requirements (including, but not limited to, water quality compliance and/or assessment and trend monitoring) when directed in writing by the Executive Officer.

- e. Upon completion of timber harvest activities and cessation of waste discharges (including pesticides), the discharger shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.

**C. CATEGORY 3: TIMBER HARVESTING ACTIVITIES ON NONFEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CAL FIRE AND FOR WHICH REGIONAL BOARD STAFF HAS FULLY PARTICIPATED IN THE INTERDISCIPLINARY REVIEW TEAM PROCESS (including Timber Harvesting Plans, Non-Industrial Timber Management Plans, other Plans, and Amendments).**

**1. Eligibility Criteria:**

- a. Central Valley Water Board staff has participated in CAL FIRE's interdisciplinary Review Team process, including an on-site pre-harvest inspection (PHI), except that Central Valley Water Board staff attendance at a PHI for an amendment is optional and is required only upon written notification by Central Valley Water Board staff.
- b. Additional management practices and/or water quality protective measures (beyond the requirements of the current Forest Practice Rules) are identified, if necessary, during the Review Team process to assure compliance with the requirements of applicable water quality control plans.
- c. Such identified management practices, and/or water quality protective measures are submitted in writing to CAL FIRE by Central Valley Water Board staff, or Central Valley Water Board staff accepts, in writing, those management practices and/or water quality protective measures proposed by either CAL FIRE or the RPF.
- d. All identified additional management practices, and/or water quality protective measures are incorporated into the Plan as submitted or accepted by Central Valley Water Board staff, or as subsequently agreed to in writing by the Executive Officer following dispute resolution.

**2. Conditions:**

The Central Valley Water Board receives the following items at least 30 days prior to the start of timber operations: (1) a copy of a Plan approved by CAL FIRE that incorporates all identified additional management practices, and/or water quality protective measures resulting from Central Valley Water Board staff participation in CAL FIRE's interdisciplinary Review Team process, and (2) a Certification Notice, signed by the landowner, listing the Plan number and certifying that the discharger believes that the activities are appropriately covered under Waiver Category 3.

- a. For an approved NTMP, the discharger shall submit each Notice of Timber Operations to the Central Valley Water Board no less than 30 days prior to commencement of timber harvesting activities.
- b. The discharger shall comply with the General Conditions described in Part I.B., above.

- c. The discharger shall notify the Central Valley Water Board, in writing, at least 60 days prior to any proposed aerial application and at least 30 days prior to any proposed ground application of pesticides. The written notification shall include the type of pesticide, the proposed date(s) of application, the method and area of application, and measures that will be employed to assure compliance with applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- e. The discharger shall comply with all conditions specified in Attachment B, "Monitoring Conditions." The discharger shall comply with all applicable requirements of the Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2014-0144. The discharger shall comply with additional monitoring and reporting program requirements (including, but not limited to, water quality compliance and/or assessment and trend monitoring) when directed in writing by the Executive Officer.
- f. Upon completion of timber harvesting activities and cessation of waste discharges (including pesticides), the discharger shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.

**D. CATEGORY 4: TIMBER HARVESTING ACTIVITIES ON NONFEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CAL FIRE FOR WHICH REGIONAL BOARD STAFF HAS NOT FULLY PARTICIPATED IN THE INTERDISCIPLINARY REVIEW TEAM PROCESS AND WHICH ARE NOT ELIGIBLE FOR A WAIVER UNDER CATEGORY 1 (including Timber Harvesting Plans, Non-Industrial Timber Management Plans, other Plans, and Amendments).**

**1. Eligibility Criteria:**

- a. The RPF, after conducting a comprehensive field review of proposed timber operations, has clearly identified in the Plan submitted to CAL FIRE the presence or absence of the following features or conditions in, or affected by, the proposed Plan:
  - aquatic or wetland habitat for salmonids or rare, threatened or endangered species,
  - domestic or municipal water use within one mile downstream of the harvest area,
  - soils with high or extreme erosion hazard rating,
  - known slides and unstable areas, including unstable or erodible watercourse banks,
  - changeable channels, overflow channels, inadequate flow capacity, flood prone areas, riparian areas, elevated stream temperatures,
  - all watercourse crossings, including existing crossings and those to be constructed or reconstructed for all Class I-IV watercourses , and existing and proposed near-stream landings and skid trails.
- b. For those Plans where aquatic or wetland habitat for rare, threatened or endangered species is identified and where timber harvesting activities may impact such habitat, additional field review has been conducted by a scientist, with a bachelor's or advanced degree in biological sciences and experience in

aquatic systems, to determine if the Plan could adversely affect such species or their habitat. For those Plans that propose timber harvesting activities on soils with extreme erosion hazard rating, known slides or unstable areas, or proposes any watercourse crossing that involves the placement of more than 500 cubic yards or 25 vertical feet of fill material, additional field review has been conducted or directed by a registered civil engineer or registered engineering geologist, as his/her California license for practicing engineering and/or geology permits, to determine if the Plan could cause or exacerbate the potential for soil erosion or mass soil movement. Field reviews conducted in accordance with a certified programmatic environmental document satisfy these eligibility criteria, if previously reviewed and accepted by the Central Valley Water Board.

c. The approved Plan:

1. Incorporates, as addenda, signed technical reports from qualified professionals when required to be prepared under Part II.D.1.b. above.
2. Incorporates any additional management practices and/or water quality protective measures (beyond the requirements of the current Forest Practice Rules) to address, at a minimum, the conditions described in Part II.D.1.a and b., above, winter period operations between October 15 and May 1, and cumulative watershed effects to assure compliance with the requirements of all applicable water quality control plans. Incorporates any and all project modifications and mitigation measures recommended by the biological scientist to avoid adverse impacts to rare, threatened or endangered species.
3. The management practices and water quality protective measures specified in the Plan pursuant to subsection (c)(2) above, shall include, at minimum, the following: (1) An Equipment Limitation Zone (ELZ) for any and all Class III and Class IV watercourses of at minimum 25 feet where sideslope steepness is less than 30%, and at minimum 50 feet where sideslope steepness is 30% or greater; (2) Any and all crossing facilities on watercourses that support fish will be installed and maintained so as to allow for unrestricted passage of fish and water during all life stages and flow conditions; (3) Any and all culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures concurrently with fill placement; (4) Any and all permanent watercourse crossing and associated fills and approaches shall be installed and maintained to prevent diversion of stream overflow down the road to minimize erosion of the fill and road prism should the drainage structure become obstructed; (5) Any and all riparian vegetation, other than commercial species, that is found along watercourses and lakes or that is found within or bordering meadows and wet areas will be retained and protected during timber harvesting activities; (6) Where seasonal water temperatures are too high to fully support beneficial uses of water in Class I or II water within or downstream from the logging areas, no trees that provide shade to the waters during critical hours during the summer period shall be cut.

2. **Conditions:**

- a. The Central Valley Water Board receives the following items at least 30 days prior to the start of timber operations: (1) a copy of an approved Plan that meets the eligibility criteria in Part IID.1.a.through c.; and (2) a Certification Notice signed by the landowner stating that the approved Plan accurately represents site conditions, and that reasonable implementation of the approved Plan will assure compliance with Waiver Category 4.
- b. For an approved NTMP, each Notice of Timber Operations shall be submitted to the Central Valley Regional Board no less than 30 days prior to commencement of timber harvesting activities.
- c. The discharger shall comply with the General Conditions described in Part I.B., above.
- d. The discharger shall notify the Central Valley Water Board, in writing, at least 60 days prior to any proposed aerial application and at least 30 days prior to any ground application of pesticides. The written notification shall include the type of pesticide, the proposed date(s) of application, the method and area of application, and measures that will be employed to assure compliance with applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- e. The discharger shall comply with all conditions specified in Attachment B, "Monitoring Conditions." The discharger shall comply with all applicable requirements of the Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2014-0144. The discharger shall comply with additional monitoring and reporting program requirements (including, but not limited to, water quality compliance and/or assessment and trend monitoring) when directed in writing by the Executive Officer.
- f. Upon completion of timber harvesting activities and cessation of waste discharges (including pesticides), the discharger shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.

**E. CATEGORY 5: TIMBER HARVESTING ACTIVITIES ON FEDERAL LANDS MANAGED BY THE U.S. FOREST SERVICE (including timber harvesting sales, fuels reduction projects, fire salvage harvest, pesticide applications, Forest Stand Improvement and Hazard Tree Removal projects)**

1. **Eligibility Criteria:**

- a. The U.S. Forest Service has conducted a multi-disciplinary review of the timber harvesting proposal, including review by watershed specialists, and has specified best management practices, and additional control measures as needed, in order to assure compliance with applicable water quality control plans.
- b. The U.S. Forest Service has conducted a cumulative watershed effects (CWE) analysis, where required or appropriate, and included specific measures needed

to reduce the potential for CWEs in order to assure compliance with applicable water quality control plans.

- c. The U.S. Forest Service has allowed the public and other interested parties reasonable opportunity to comment on and/or challenge individual timber harvesting proposals.

2. **Conditions:**

- a. The U.S. Forest Service shall submit to the Central Valley Water Board copies of final decision documents that contain information documenting compliance with the eligibility criteria at Part II.E.1., above. A copy of applicable final NEPA documents shall be submitted upon written request by Central Valley Water Board staff.
- b. The U.S. Forest Service shall comply with all conditions specified in Attachment B, "Monitoring Conditions." The U.S. Forest Service shall also comply with all applicable requirements of Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2014-0144. The U.S. Forest Service shall comply with additional monitoring and reporting program requirements (including, but not limited to, water quality compliance and/or assessment and trend monitoring) for all projects (except forest stand improvement and hazard tree removal projects) when directed in writing by the Executive Officer. As specified in Attachment B, the U.S. Forest Service is required to conduct effectiveness and forensic monitoring only when: (1) the discharger's cumulative watershed effects analysis indicates that the project, combined with other U.S. Forest Service projects conducted in the watershed over the past 10 years, may cause any watershed or sub-watershed to exceed a threshold of concern as determined by various models (i.e., Equivalent Roaded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.). The U.S. Forest Service shall comply with the General Conditions described in Part I.B., above.
- c. Upon completion of timber harvesting activities and cessation of waste discharges (including pesticides), the U.S. Forest Service shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.

**III. TERMINATION OF COVERAGE**

1. The discharger may terminate coverage under this Waiver for a completed timber harvesting activity by submitting to the Central Valley Water Board a Notice of Termination Form (NOT). The following criteria, in general, must be satisfied before termination of waiver coverage will be considered by the Executive Officer:

Timber harvesting activities are completed,  
All Category specific eligibility criteria were met,  
All elements of required reporting have been completed,  
Soil disturbed by timber harvest activities has stabilized, and  
Pesticide applications have ceased and are not proposed

The NOT shall be signed by the landowner for nonfederal lands and the Forest Supervisor or District Ranger for federal lands. In signing the NOT, the discharger or U.S. Forest Service representative shall certify that: (1) the timber harvesting activities were conducted in conformance with the approved plan, accepted notice or U.S. Forest Service project requirements, all eligibility criteria specified in the applicable Waiver category and all other applicable provisions of this Waiver, and (2) discharges resulting from the timber harvesting activities and pesticide applications were in compliance and will continue to comply with all requirements of applicable water quality control plans.

The Executive Officer shall review the NOT specifically noting compliance with the above criteria. A field inspection may be conducted to verify compliance with all Waiver criteria and conditions. The Executive Officer shall notify the discharger regarding approval or disapproval of the NOT.

Note: Enrollment in a waiver is required until such time that waste discharges related to timber harvesting activities, including pesticides, have ceased.

#### **IV. TERMINATION OF WAIVERS**

1. The Executive Officer shall terminate the applicability of a waiver to specific timber harvesting activities if the Executive Officer makes any of the following determinations:
  - a. The proposed timber harvesting activities do not comply with the eligibility criteria for the Waiver.
  - b. The timber harvesting activities are not in compliance with the applicable conditions of the Waiver.
  - c. The proposed timber harvesting activities are reasonably likely to cause or contribute to any violation of an applicable water quality control plan or policy. In making this determination, the Executive Officer shall consider the recommendations of Central Valley Water Board staff that participated in the review of the proposed timber harvesting activities, if any.
  - d. A timber harvesting activity has varied in whole or in any part from the approved Plan (for discretionary approvals) or Notice (for non-discretionary approvals), unless these changes result in better protection of water quality.
2. Upon receipt of notice of termination of applicability of the Waiver, the discharger shall immediately cease all timber harvesting activities that may result in discharges to waters of the State, other than activities necessary to control erosion. Upon such notice of termination, the discharger must file a report of waste discharge and applicable filing fee pursuant to Water Code section 13260. Timber harvesting activities that may result in discharges that could affect the quality of waters of the state may commence only upon enrollment by the Executive Officer under general waste discharge requirements, the adoption by the Central Valley Water Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with Water Code section 13264, subdivision (a).

**ATTACHMENT B  
MONITORING AND REPORTING CONDITIONS  
FOR DISCHARGES ENROLLED UNDER THE  
WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES  
RELATED TO TIMBER HARVESTING ACTIVITIES  
PURSUANT TO  
CALIFORNIA WATER CODE SECTION 13269**

This attachment contains Monitoring and Reporting conditions that are applicable to the various timber harvesting activity categories specified in Attachment A “Waiver of Waste Discharge Requirements for Discharges related to Timber Harvesting Activities” (Waiver). The purpose of these monitoring conditions is to assure compliance with Waiver criteria and conditions, to verify the adequacy and effectiveness of the Waiver, to assist dischargers with implementation and maintenance of water quality protection measures and to identify and correct waste discharges that violate or threaten to violate water quality control plan (Basin Plan) requirements. The attachment specifies conditions that are consistent with California Water Code (Water Code) section 13269, subdivision (a)(2) and are applicable to Waiver Categories 1 through 5 in Attachment A.

**I. AUTHORITY TO REQUIRE MONITORING**

Water Code section 13269, subdivision (a)(2) requires a waiver of waste discharge requirements to include as a condition the performance of individual, group, or watershed-based monitoring and the monitoring be designed to support the development and implementation of the waiver program, unless the Central Valley Water Board determines, consistent with Water Code section 13269, subdivision (a)(3) that discharges subject to the waiver do not pose a significant threat to water quality. This attachment sets forth monitoring and reporting conditions that comply with Water Code section 13269.

**II. MONITORING DESCRIPTIONS<sup>1</sup>**

**A. Field Verification Monitoring (includes all monitoring types conducted by direct field observation)**

Agency Monitoring – Each timber harvesting activity conducted pursuant to approval by the California Department of Forestry (CAL FIRE) and the United States Forest Service (U.S. Forest Service) are subject to compliance monitoring conducted by CAL FIRE (on private lands) and the U.S. Forest Service (on federal lands) to evaluate compliance with CAL FIRE’s Forest Practice Rules or U.S. Forest Service best management practices (BMP) guidance documents. CAL FIRE and the U.S. Forest Service have been asked to notify the Central Valley Water Board when Agency Monitoring detects violation of CAL FIRE rules or U.S. Forest Service BMP requirements that relate to water quality protection measures.

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<sup>1</sup> A multi-agency timber harvest monitoring workgroup (MOU Monitoring Workgroup) has developed a “Joint Report on Monitoring Terms and Authorities” that contains terms, descriptions and criteria relating to water quality related monitoring of timber operations. The descriptions in this section (with the exception of the term “Agency Monitoring”) are derived from the “Joint Report” which was developed by representatives of the participating Regional Boards, CAL FIRE and other agencies.



Implementation Monitoring - Implementation Monitoring consists of detailed visual monitoring of harvested areas and roads/landings prior to the rainy season, with emphasis placed on determining if management measures (such as erosion control measures, riparian buffers) were implemented or installed in accordance with approved timber harvest projects including Waiver eligibility criteria. Implementation Monitoring may include photo-documentation of implemented or installed management measures (photo-point monitoring). Implementation Monitoring is essential to assure that water quality protection measures are in place prior to the onset of significant precipitation. Implementation Monitoring is applied at the project scale. Implementation Monitoring is conducted by the discharger and by regulatory agencies during compliance or completion inspections. BMP implementation monitoring conducted by the U.S. Forest Service is considered to be both Agency Monitoring and Implementation Monitoring for the purposes of this Attachment.

Effectiveness Monitoring – Effectiveness Monitoring consists of monitoring subsequent to harvest to evaluate whether particular management measures are or were effective at achieving desired results. Effectiveness Monitoring may be applied at a range of spatial scales, focusing on specific management measures for multiple rainfall events or multiple years. Effectiveness Monitoring may include visual hillslope monitoring (observations outside of the stream or stream channel, i.e., on the harvested slopes) or visual instream monitoring (evaluation of instream conditions). Effectiveness Monitoring is applied at the project scale. Effectiveness Monitoring is generally conducted by the discharger and by regulatory agencies during site inspections.

Forensic Monitoring - Forensic Monitoring employs visual field detection techniques to detect significant pollution caused by failed management measures, failure to implement necessary measures, legacy timber activities, non-timber related land disturbances and natural sediment sources. Forensic Monitoring may also include photo-point monitoring to document pollution sources. Forensic Monitoring is most successful when criteria such as storm events of particular size are used to trigger field investigations for timely detection and repair of controllable sediment sources. Forensic Monitoring is typically applied at the sub-watershed or project scale. Forensic Monitoring is generally conducted by the discharger and by agencies during periodic compliance inspections.

Water Quality Compliance Monitoring – Water Quality Compliance Monitoring employs water column sampling to determine whether waste discharges (sediment, turbidity, temperature and pesticide concentrations) from timber harvesting activities are in compliance with Basin Plan standards. In most instances, it is necessary to collect pre-project data and/or establish reference or control sites to make compliance monitoring successful. Water Quality Compliance Monitoring is typically applied at the sub-watershed or project scale focusing on the effects of a single project for a period greater than the active life of the project. Water Quality Compliance Monitoring is generally required of and is the responsibility of the discharger but may be conducted by regulatory agencies in response to complaints or as follow-up to violations.

Assessment and Trend Monitoring – Assessment Monitoring is used to characterize existing water quality or related stream conditions on a watershed scale at a discrete instant or over a defined time period. Examples include monitoring to determine reference or baseline conditions, determine existing beneficial uses, provide information for cumulative watershed effects analyses in order to develop mitigation measures for

timber harvesting activities or other projects in a given watershed, and provide information to select sites for restoration and/or remedial work to improve water quality.

Trend Monitoring is used to characterize water quality conditions over time. Trend Monitoring is typically applied at a watershed scale, focusing on the combined effects of all past and present watershed management activities over a period of time. Examples of trend monitoring objectives include; characterize watershed conditions resulting from combined effects of land use activities over time, determine whether Basin Plan water quality objectives are achieved and maintained over time and, in impaired waterbodies, assist in restoration or remedial work to maximize benefits to water quality. Assessment and Trend Monitoring efforts are the most intensive and costly monitoring types and the monitoring, to be scientifically valid, must occur over a long period of time and take into account all waste sources and natural inputs in the watershed. Assessment and Trend Monitoring is usually conducted by the discharger but may, in rare instances and when funds are available, be conducted by regulatory agencies.

#### **B. Waiver Compliance Monitoring (Waiver condition monitoring)**

Waiver Compliance Monitoring is non-field monitoring submitted by the discharger to verify compliance with all applicable timber waiver criteria and conditions. Attachment A contains conditions that require dischargers (landowner for non-federal lands, Forest Supervisor or District Ranger for federal lands) enrolled in Categories 2, 3, 4, and 5 to sign and submit a "final certification" that certifies that:

Timber harvesting activities were conducted in conformance with the approved plan or accepted notice (for private lands) and with all applicable provisions of the waiver.

Discharges resulting from the timber harvesting activities and pesticide applications were in compliance or expected to be in compliance with all requirements of applicable water quality control plans.

### **III. MONITORING CRITERIA**

Site-specific factors must be considered when determining the type of monitoring to be required for timber harvesting activities. Site-specific determinations should focus primarily on the threat to water quality, taking into account the effectiveness of monitoring, monitoring suitability, and access. In general, the rigor and complexity of monitoring increases as the threat to water quality increases.

**A. Threat to Water Quality** – Threat to water quality is a function of site-specific characteristics that, individually or in combination, can trigger the need for increased levels of monitoring. Under each characteristic listed below, examples of conditions that correspond to an increased threat to water quality are provided.

#### 1. Distribution and Sensitivity of the Beneficial Uses of Water

Presence of domestic water supplies

Presence of aquatic species (including listed species)

Close proximity of operations to other critical beneficial uses or sensitive receptors

2. Current Water Quality Conditions
  - Existing TMDLs or 303(d) listings
  - Documented non-compliance with Basin Plan standards
  - Known or suspected watershed impacts
3. Physical Setting
  - Unstable geologic setting / steep slopes
  - Erodible soils
  - Existing landslides or active erosion sites
  - Roads or watercourse crossings in poor condition
  - Harsh climates and/or intense precipitation regimes
4. Type and Scope of Proposed Activities
  - Intense silvicultural and/or yarding methods
  - Intensity of site preparation and/or road construction
  - Winter operations and/or “alternative” or “in lieu” practices
  - Operations in or near watercourses and flood-prone areas

**B. Water Column Monitoring Suitability** – The suitability of water column monitoring is a function of various factors related to the feasibility of conducting monitoring. In some cases, monitoring that is considered necessary may be infeasible due to factors such as: lack of available and/or appropriate sampling locations, inadequate streamflow regime, difficult access, safety concerns, potential for vandalism, and potential for equipment damage or loss. In some situations, bioassessment and/or physical stream condition evaluation or monitoring may provide a better indication of potential water quality and beneficial use impacts than water column sampling. Bioassessment monitoring should be approved, by the Executive Officer, where it provides the most accurate and useable information or where water column monitoring cannot be feasibly conducted due to safety, access or other factors. Water column monitoring for sediment (the primary pollutant in timber related discharges) is complicated by the fact that sediment occurs naturally, is in runoff (discharged from) non-timber related land use activities, and may be elevated due to “legacy” timber harvesting (logging conducted prior to improved CAL FIRE and U.S. Forest Service processes).

**C. Watercourse Assessment for “High Harvest” Watersheds (development and submittal)** - A Watercourse Assessment shall be conducted at low streamflow conditions and submitted to the Central Valley Water Board when a timber harvesting activity is proposed in a Class I CalWater Planning Watershed where timber harvesting activities over the last 10 years **meet or exceed the following criteria:**

50 percent of the watershed area has been harvested, and even-aged management prescriptions constitute 50 percent of the harvested areas.

40 percent of the watershed area has been harvested, and even-aged management prescriptions constitute 60 percent of the harvested areas.

30 percent of the watershed area has been harvested, and even-aged management prescriptions constitute 70 percent of the harvested areas.

The Watercourse Assessment shall be submitted to the Executive Officer with the Certification Notice or as soon as possible thereafter following the low streamflow period. The Executive Officer will evaluate the Watercourse Assessment and will determine the need for additional monitoring requirements including consideration of Water Quality Compliance and Assessment/Trend monitoring. The Watercourse Assessment shall include, at a minimum, the following:

1. A topographic based map with information required by California Board of Forestry and Fire Protection (BOF) Technical Rule Addendum No. 2 (2005 BOF Forest Practice Rules) and indicating the location of watercourse assessment monitoring locations described in 2., below. The map shall also include the locations of photo-documentation points, where required.
2. A detailed report, prepared by a qualified professional<sup>21</sup>, describing the condition of all Class I watercourses in the CalWater Planning Watershed, both upstream and downstream of the proposed timber harvest area. The report shall include, but not be limited to, the following:

Gravel Embeddedness – Description (based upon visual observations) of the degree gravel is embedded with sand or finer sediments. Photo-documentation required.

Pool Sedimentation – Description (based upon visual observations) of degree of sediment depositions in pools. Photo-documentation required.

Stream Channel Aggradation – Degree that stream channel has been raised by sedimentation.

Streambank Cutting, Mass Wasting and Stream Downcutting – Description of streambank condition(s) – Photo-documentation required.

Stream-Side Vegetation – Description of stream-side vegetation.

Recent Flood History – Description of unusually high recent flows and whether these high flows were related to timber harvesting activities.

The above watercourse conditions shall be evaluated for every Class I watercourse within the CalWater Planning Watershed area that may be impacted by the proposed timber harvesting activity. The topographic map, detailed report and required photo-documentation must be submitted at least 30 days prior to start of proposed timber harvesting activities. The Executive Officer may require development and submittal of a Watershed Assessment for any timber harvesting activity that poses a significant threat to water quality.

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<sup>1</sup> “Qualified professional” means a person with the appropriate training and/or licensing to prepare technical reports designed to prevent or minimize the discharge of waste and to conduct site inspections.

#### IV. MONITORING CONDITIONS

Each discharger enrolled in the Waiver contained in Attachment A shall conduct monitoring as specified in this attachment (as described below) and as required in the Implementation, Forensic and Effectiveness Monitoring and Reporting Program Order No. R5-2014-0144.

- A. Agency Monitoring<sup>2</sup>** – Waiver Category 1 through Category 5 shall be subject to Agency Monitoring. Dischargers enrolled in Waiver Category 1 and Category 5 (for minor/exempt projects only) need only be subject to Agency Monitoring.
- B. Implementation Monitoring<sup>2</sup>** – Dischargers shall conduct Implementation Monitoring as follows: (1) all Notices of Emergency or Exemption seeking coverage under Waiver Category 2, (2) THPs, NTMPs and other plans submitted and approved by CAL FIRE seeking coverage under Waiver Category 3 or 4; and (3) timber harvest proposals approved by the U.S. Forest Service (other than Forest Stand Improvement and/or Hazard Tree Removal Projects) seeking coverage under Waiver Category 5. Implementation photo-point monitoring will be required when the conditions listed in Attachment A, Category 4, Eligibility Criteria b. for soils, unstable areas and large watercourse crossings are present. Implementation photo-point monitoring may also be required if directed, in writing, by the Executive Officer. Implementation monitoring is considered the most critical monitoring type with respect to preventing water quality impairment.
- C. Effectiveness and Forensic Monitoring<sup>2</sup>** – Dischargers shall conduct visual Forensic and Effectiveness Monitoring, **in addition to Implementation Monitoring**, for the following: (1) Waiver Category 2 Emergency Notices involving fire salvage only, (2) Waiver Category 3 and 4 THPs, NTMPs and plans and (3) Waiver Category 5 timber sales or projects. Dischargers conducting timber harvesting activities under Waiver Categories 3 and 4 (nonfederal lands) that meet all the following criteria will **not** be required to conduct Effectiveness and Forensic Monitoring:

No constructed or re-constructed Class I, II or Class IV (with domestic use) watercourse crossings.

No ground based equipment operations within Class I, II or IV (with domestic use) watercourse protection zones.

No winter operations within any Class I, II or IV (with domestic use) watercourse protection zones or on areas classified high or extreme erosion hazard rating.

No road construction or re-construction within 500 feet upslope of a Class I, II or IV (with domestic use) watercourse.

No landing construction or re-construction within Class I, II or IV (with domestic use) watercourse protection zones.

No heavy equipment operations on areas classified High or Extreme Erosion Hazard Rating that have potential to impact water quality.

No “in-lieu” or “alternative” practices that have potential to impact water quality.

No ground-based equipment used on slopes over 65 percent or slopes over 50 percent classified as High or Extreme Erosion Hazard Rating.

The U.S. Forest Service shall conduct Effectiveness and Forensic monitoring when: (1) the discharger’s cumulative watershed effects analysis indicates that the project,

combined with other U.S. Forest Service projects conducted in the watershed over the past 10 years, may cause any watershed or sub-watershed to exceed a threshold of concern as determined by various models (i.e., Equivalent Roaded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.).

**D. Water Quality Compliance Monitoring<sup>2</sup>** – Dischargers shall conduct Water Quality Compliance Monitoring **in addition to Implementation, Effectiveness and Forensic Monitoring**, upon notice by the Executive Officer, when, for example, any of the following conditions are detected or reported:

General or widespread failure of an active project to comply with CAL FIRE Forest Practice Rules or U.S. Forest Service BMP guidance documents or Waiver Criteria and Conditions regarding implementation of management measures relating to water quality protection.

General or widespread failure of management measures relating to water quality protection due to improper implementation, installation or inadequate maintenance.

Identification of discharges or threatened discharges of sediment and/or pesticides or increases in water temperature resulting from timber harvesting activities covered under the Waiver that are likely to cause or contribute to a violation of the applicable water quality control plan, including water quality objectives listed in Attachment 1.

Water Quality Compliance Monitoring Programs will be developed and issued by the Executive Officer on a site-specific basis. Water Quality Compliance Monitoring may be directed by the Executive Officer as a result of staff review of a Watercourse Assessment for “High Harvest” Watersheds submitted in accordance with Part III.C of this attachment.

**E. Assessment and/or Trend Monitoring<sup>2</sup>** – Dischargers shall conduct Assessment and/or Trend Monitoring **in addition to Implementation, Effectiveness and Forensic Monitoring and either in concert with or in lieu of Water Quality Compliance Monitoring**, upon notice by the Executive Officer, when, for example, any of the following conditions occur:

Significant and recurring violations of sediment, turbidity, temperature or pesticide water quality control plan objectives in a Class I CalWater Planning Watershed.

Identification of an immediate and long-term threat to critical downstream beneficial uses resulting or that could result from timber harvesting activities conducted in a CalWater Planning Watershed.

Harvesting in areas tributary to 303(d) listed waterbodies where timber harvesting activities threaten to significantly delay recovery of the waterbody.

<sup>2</sup> The Executive Officer may increase or decrease the monitoring level for specific timber harvesting proposal(s) as site conditions and risk to water quality dictates.

Assessment and/or Trend Monitoring Programs will be developed and issued by the Executive Officer on a site-specific basis. Assessment and/or Trend Monitoring may be directed by the Executive Officer as a result of staff review of a Watercourse Assessment for "High Harvest" Watersheds submitted in accordance with Part III.C of this attachment.

#### **F. General Reporting Requirements**

Submission of Monitoring Reports and Data – The discharger shall submit all required monitoring reports to the Central Valley Water Board in accordance with the reporting requirements specified in Implementation, Forensic and Effectiveness Monitoring and Reporting Program No.R5-2014-0144 and any other monitoring and reporting program issued by the Executive Officer. The discharger shall also report monitoring data and results, in a timely manner, for all water quality related monitoring conducted independent of the requirements of this Waiver.

Violation and Failure Reporting - The discharger shall report as soon as possible by telephone, but no later than 48 hours after detection of any of the following:

- Discharge(s) resulting in violation of an applicable Basin Plan requirements
- Failure of a major management measure(s) (large fill area, watercourse diversion, major road or skid trail failure within or adjacent to a watercourse protection zone)
- New landslide activity that may discharge sediment to watercourses
- Violation(s) of eligibility criteria or conditions specified in Attachment A.

A written report regarding such violation(s) and/or management measure failure(s) including planned or implemented corrective actions shall be submitted within 14 days following detection. The written report shall include all information specified in the Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2014-0144.

#### **V. MONITORING AND REPORTING PROGRAM ISSUANCE**

The Executive Officer shall issue, to all dischargers upon their enrollment in the Waiver, Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2014-0144. The Executive Officer may issue site-specific and individually developed Water Quality Compliance and Assessment/Trend watershed scale monitoring and reporting programs in accordance with these Monitoring and Reporting Conditions (Attachment B). The Executive Officer may also revise and re-issue Monitoring and Reporting Programs at any time. The discharger shall comply with all Monitoring and Reporting Programs issued under this Waiver.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ATTACHMENT C  
**IMPLEMENTATION, FORENSIC AND EFFECTIVENESS  
MONITORING AND REPORTING PROGRAM  
ORDER NO. R5-2014-0144  
FOR  
INDIVIDUAL DISCHARGERS  
UNDER  
WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES RELATED TO TIMBER HARVESTING ACTIVITIES**

This Monitoring and Reporting Program (MRP) Order presents requirements for visual field monitoring of individual timber harvesting projects enrolled in the Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvesting Activities (Waiver). This MRP is issued pursuant to Water Code sections 13267 and 13269, subdivision (a). This MRP implements conditions required by the Waiver and the Monitoring and Reporting Conditions (Attachment B) of Regional Board Order R5-2014-0144 for conducting Implementation, Forensic and Effectiveness monitoring for timber harvesting activities enrolled in the Waiver under Categories 2 through 5. All timber harvesting activities enrolled under Waiver Categories 2 through 5 shall comply with this MRP Order unless a revised MRP is issued by the Executive Officer.

This Monitoring and Reporting Program has been developed to assure compliance with requirements of applicable water quality control plans (Basin Plans) and to verify the adequacy and effectiveness of the Waiver's conditions.

**INSPECTION PLAN**

The discharger shall prepare and implement an Inspection Plan for evaluating the implementation and effectiveness of management measures installed to comply with Waiver eligibility criteria and conditions for the following:

Accepted Exemption and Emergency Notices (Category 2 only), Timber Harvesting Plans (THPs), Non-industrial Timber Management Plans (NTMPs), and other Plans approved by the Department of Forestry and Fire protection (CAL FIRE).

Sales and projects approved by the United States Forest Service (USFS) except Forest Stand Improvement and Hazard Tree Removal projects.

The Inspection Plan shall be designed to ensure that management measures are installed and functioning prior to rain events, that the measures were effective in controlling sediment discharge sources throughout the winter period, and that no new sediment sources developed. The Inspection Plan shall include a monitoring point (inspection location) site map, for THPs and timber sale projects that exceed 100 acres in size. The site map shall include monitoring points (inspection locations) to be visited before, during and after the winter period. Monitoring points are further described as follows:

*Visual Monitoring Points* - Visual monitoring points shall be delineated on the monitoring point site map and include roads, watercourse crossings, landings, skid trails, water



diversions, known or suspected landslides and all accessible watercourse confluences.

*Photo-Point Monitoring Points* – Photo-point monitoring points shall be delineated on the monitoring point site map and shall be identified in the field by use of rebar, flagging or other method that will last throughout the active discharge period of the proposed project. Implementation photo-point monitoring is automatically required when conditions listed for soils, unstable areas and large watercourse crossings in Category 4, Eligibility Criteria b. are present. Forensic photo-point monitoring is required when a significant discharge of sediment is detected or when failed management measures cause or may cause the release of 10 cubic yards (or more) of sediment to watercourses. Photo-point monitoring is required when Effectiveness Monitoring indicates that there were management measure failure(s) that resulted in a significant discharge of sediment to a Class I or Class II watercourse. Effectiveness photo-point monitoring shall include photos of streambed conditions immediately downstream of areas where significant discharges of sediment occurred. Monitoring points for Category 3 (nonfederal lands) will be determined during the pre-harvest inspection when Regional Board staff is present.

Inspection Plans shall be maintained and updated as needed by the discharger and/or agents thereof. Inspection Plans shall be submitted to the Regional Board upon request, in writing, by the Executive Officer, and those Inspection Plans shall be made available to the public.

## SITE INSPECTIONS

**Implementation Monitoring** - Implementation monitoring site inspections conducted prior to the winter period shall be designed to assure that management measures are properly installed. A “final compliance report” or “work completion report” inspection, conducted by CAL FIRE prior to the winter period and after cessation of active harvesting and road construction, may be substituted for the required pre-winter inspection if the inspection covers the entire plan area and the report is submitted to the Regional Board before December 1.

**Forensic Monitoring** – Forensic monitoring inspections shall be conducted during the winter period and shall be designed to detect potentially significant sources of pollution such as failed management measures or natural sources. The goal of winter forensic monitoring is to locate sources of sediment production in a timely manner so that rapid corrective action may be taken where feasible and appropriate. Winter forensic monitoring may also assist in determining cause and effect relationships between hillslope activities (harvesting, road construction etc.), hydrologic triggers and instream conditions. When conducting forensic monitoring, the discharger shall also perform visual monitoring of roads, watercourse crossings, landings, skid trails, and known landslides to the extent feasible.

**Effectiveness Monitoring** – Effectiveness monitoring inspections shall be conducted following the winter period and shall be designed to determine whether hillslope conditions created by timber operations are resulting in instream conditions that visually appear to comply with water quality objectives and protect instream beneficial uses, determine whether Waiver criteria and conditions, on a programmatic scale, are adequately protecting water quality and instream beneficial uses and assist in development of waiver conditions and adaptive management

processes to assure compliance with Basin Plan requirements.

The type of monitoring to be conducted for an individual timber harvesting project (Implementation, Forensic and Effectiveness monitoring) shall be determined by the criteria listed in Waiver Attachment B, Part IV "Monitoring Conditions" or as otherwise directed, in writing, by the Executive Officer. Site inspections shall be conducted by qualified professionals<sup>1</sup>.

### INSPECTION SCHEDULE

**Implementation Monitoring** - Implementation monitoring inspections shall be initiated once the startup of timber harvesting activities begin within an area covered by a Notice or Plan (nonfederal lands) or sale or project (federal lands) and shall continue throughout the duration of the project while timber harvesting activities occur and until discharges associated with timber harvesting activities cease. Implementation inspections shall be conducted as follows:

*Where Timber Harvesting Activities Have Not Yet Commenced*

No inspections required.

*Where Timber Harvesting Activities Have Commenced and No Winter Operations are Planned.*

A pre-winter Implementation inspection shall be completed **by October 15 (but not later than November 15) of each year** to assure that management measures are in place and secure prior to the winter period. Note: As indicated above, an inspection conducted by CAL FIRE may satisfy this pre-winter period inspection requirement.

*Where Timber Harvesting Activities Have Commenced and Winter Operations are Planned*

A pre-winter implementation inspection shall be completed **by October 15 (but not later than November 15) of each year** to assure that management measures, for areas not subject to winter operations, are in place and secure prior to the winter period. An Implementation inspection shall be completed **immediately following cessation of winter period operations**, in areas where winter operations occurred, to assure management measures are in place and secure.

**Forensic Monitoring** - Forensic monitoring inspections shall be conducted during the winter period to determine the condition of installed management measures and to detect sediment discharges resulting from failed management measures and general timber harvesting activities. Forensic monitoring shall take place at least two times during the winter period, as follows:

**Once**, during or within 12 hours following a 24-hour storm event of at least 2 inches (of rainfall) and after 5 inches (of total precipitation) has accumulated **after November 15 and before April 1**. Inspections that cannot be conducted during or within 12 hours of

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<sup>1</sup> "Qualified professional" means a person with the appropriate training and/or licensing to prepare technical reports designed to prevent or minimize the discharge of waste and to conduct site inspections.

such a storm event (due to worker safety, access or other uncontrollable factors) shall be conducted as soon as possible thereafter.

**Once**, during or within 12 hours following a 24-hour storm event of at least 2 inches (of rainfall) and after 15 inches (of total precipitation) has accumulated **after November 15 and before April 1**. Inspections that cannot be conducted during or within 12 hours of such a storm event (due to worker safety, access or other uncontrollable factors) shall be conducted as soon as possible thereafter.

Additional Forensic Monitoring inspections shall be conducted if the following "observation trigger" occurs:

A noticeable significant discharge of sediment is observed at any time in any Class I or Class II watercourse. Photo-point monitoring shall be conducted when such discharge is the result of failed water quality protection management measure(s) or lack of implementation of such measure(s).

Follow-up forensic monitoring inspections shall be conducted until corrective action is completed to repair or replace failed management measures and/or significant sediment discharges have ceased.

**Effectiveness Monitoring** - An Effectiveness monitoring inspection shall be conducted as soon as possible following the winter period to determine the effectiveness of management measures in controlling discharges of sediment and in protecting water quality. The Effectiveness monitoring inspection shall take place as follows:

**After March 15 and before June 15** to assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new controllable sediment sources have developed.

The Effectiveness monitoring inspection shall include visual inspection of hillslope components (roads, landings, skid trails, watercourse crossings and unstable areas). If the visual inspection of hillslope components reveals significant management measure failure(s), a visual inspection of instream components (bank composition and apparent bank stability, water clarity and instream sediment deposition) shall also be conducted.

## REPORTING

**Annual Reporting** - The discharger shall submit an Annual Monitoring Report to the Executive Officer by **July 15** for inspections covering the previous winter period for every year a timber harvesting activity is enrolled in the Waiver. An Annual Monitoring Report need not be submitted for timber harvesting activities that were started after the winter period until the following year. The Annual Monitoring Report shall, at a minimum, include the date and type of each inspection, the inspector's name and title, the location of each inspection including the name and number of the plan, notice, sale or project, and the title and name of the person submitting the report, the inspection findings (including any photographs taken with date and time clearly delineated) and shall describe how the discharger has complied with the

IMPLEMENTATION, FORENSIC AND EFFECTIVENESS MONITORING AND REPORTING PROGRAM NO. R5-2014-0144 FOR INDIVIDUAL DISCHARGERS UNDER THE WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES RELATED TO TIMBER HARVESTING ACTIVITIES

requirements of this MRP. A discharger may submit a single Annual Monitoring Report for all timber harvesting activities conducted for the year under a CAL FIRE approved Sustained Yield Plan. The timely submittal of a USFS BMP evaluation report will satisfy the reporting requirement for implementation monitoring for federal lands.

**Violation Reporting** - The discharger shall report as soon as possible by telephone, but no later than 48 hours after detection, any violation or suspected violation of an applicable water quality control plan requirement, failure of a major management measure (large fill area, watercourse diversion, major road or skid trail failure within or adjacent to a watercourse protection zone), any new landslide activity that may discharge sediment to watercourses, and any violation of Eligibility Criteria or Conditions listed in the Waiver. A written report regarding such violation(s) or management measure failure(s) shall be submitted within 14 days following detection and shall include the following:

- Date violation(s) or failure(s) was discovered
- Name and title of person(s) discovering violation(s) or failure(s)
- Map indicating location of violation(s) or failure(s)
- Nature and extent of violation(s) or failure(s)
- Photos of site characterizing violation(s) or failure(s)
- Corrective management measures implemented to date
- Implementation schedule for additional corrective actions
- Signature and title of person preparing report

The Executive Officer may modify or rescind this MRP at any time, or may modify and issue an MRP as to a specific discharger.

Ordered by

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PAMELA C. CREEDON, Executive Officer

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## Region 6: Lahontan

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION

BOARD ORDER NO. R6T-2014-0030

**CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS**

**FOR**

**WASTE DISCHARGES RESULTING FROM  
TIMBER HARVEST AND VEGETATION MANAGEMENT ACTIVITIES  
IN THE LAHONTAN REGION  
"2014 TIMBER WAIVER"**

Modoc, Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Alpine, Mono, Inyo,  
San Bernardino, Kern, and Los Angeles Counties

**CONTENTS**

- Section A: Findings.** Provides the legal and factual basis for the Timber Waiver.
- Section B: General Provisions.** Statements regarding waiver applicability, waiver effective and expiration dates, and liability.
- Section C: General Conditions.** Conditions that apply to projects regulated by this Timber Waiver.
- Section D: Timber Waiver Categories.** Category-specific eligibility criteria and conditions for activities regulated by this Timber Waiver.
1. Defensible space and construction activities
  2. Hand crew operations
  3. Post fire rehabilitation
  4. Activities that rely on existing roads & meet 11 criteria
  5. CAL FIRE-approved plans
  6. Activities that do not qualify for Categories 1 - 5
- Section E: Certification.** Statement of certification by the Executive Officer.
- List of Attachments** – Definitions, applications, monitoring and reporting forms

**A. FINDINGS**

WHEREAS the California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. California Water Code (Water Code) section 13260, subdivision (a) requires that any person (hereby referred to as "enrollee") discharging waste or proposing to discharge waste as defined by Water Code section 13050 (including but not limited to waste earthen and organic materials) that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Water Board a report of waste discharge containing information that may be required by the Water Board. Only persons proposing timber harvest and/or vegetation management activities that may potentially result in a discharge or threatened discharge of waste to waters of the state are subject to regulation by the Water

Board and coverage under this waiver of waste discharge requirements (and waiver of the requirement to file a report of waste discharge) or file a report of waste discharge pursuant to Water Code section 13260.

2. The Water Board has identified wastes associated with timber harvest and vegetation management activities (as defined in Attachment A) as having a potential effect on water quality. These vegetation management activities have the potential to effect water quality by causing soil to discharge to a waterbody, slump or erode by wind, or be compacted or deformed which limits the soil’s ability to infiltrate or filter runoff. Activities eligible for this Timber Waiver range from fuel reduction work conducted around existing structures to commercial timber harvest and vary in potential threat to water quality. For example, project characteristics such as method of tree removal, intensity and proximity of activities to surface waters, and the sensitivity of the area will influence the mitigation measures needed to ensure the activity will have a less-than-significant impact on water quality and the environment. The types of activities that are eligible for this Timber Waiver have been divided into six categories to address the diversity of activities and the associated conditions. Segregating these activities into categories is intended to assist enrollees in identifying eligibility criteria and conditions that apply to their particular activity. Table 1 summarizes the six categories of activities eligible for the Timber Waiver.

**Table 1: Summary of Timber Harvest and Vegetation Management Activity**

**Categories.** Please note that this table supplies only a brief summary of the eligibility criteria, conditions, and requirements of each category, please refer to Section D. Timber Waiver Categories (pages 15-31) for more complete information. For a summary and timeline of the monitoring and reporting required for Categories 4, 5, and 6 please review Attachment P.

Category	Type of timber harvest and vegetation management activities	Notification, application, and monitoring requirements	Application processing timeline
1	Activities associated with defensible space, defense zone, forest fire prevention, and construction activities	No notification, application or monitoring.	None
2	Activities conducted by hand crews, including limited prescribed fire inside Waterbody Buffer Zones		
3	Planned post fire rehabilitation	Written notification within 7 days of initiation. No monitoring required as part of Timber Waiver.	

Category	Type of timber harvest and vegetation management activities	Notification, application, and monitoring requirements	Application processing timeline
4	Activities that rely on existing roads, meet 11 criteria, limited prescribed fire inside Waterbody Buffer Zones, and may include winter period operations	Application, implementation monitoring and reporting, and Project Completion Form submittals required. Winter monitoring required if equipment is operated during the winter period.	Work may begin upon receipt of application by Water Board.
5	CAL FIRE – approved Timber Harvest Plan, Non-Industrial Timber Management Plans, or other CAL FIRE Plans	Application, monitoring and reporting, and Project Completion Form submittals required.	
6	Activities that do not qualify for categories 1-5, and may include activities within 100-year floodplains or Stream Environment Zones	Application, monitoring and reporting, and Project Completion Form submittals required	Application submitted at least <b>30 days</b> before beginning work.

3. The provisions of Water Code section 13260, subdivisions (a) and (c); section 13263, subdivision (a); or section 13264 subdivision (a) may be waived by the Water Board pursuant to Water Code section 13269 for a specific type of discharge if the Water Board determines, after any necessary meeting, that the waiver is consistent with the Water Quality Control Plan for the Lahontan Region (Basin Plan) and is in the public interest.
4. Water Code section 13269 includes the following provisions:
  - (a) The waiver may not exceed five years in duration, but may be renewed by the Water Board at any time;
  - (b) The waiver shall be conditional and may be terminated at any time by the Water Board;
  - (c) The conditions of the waiver shall include the performance of agency, individual, group, or watershed-based monitoring, unless waived because the Water Board determines that the discharges do not pose a significant threat to water quality;
  - (d) Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions;



- (e) In establishing monitoring requirements, the Water Board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based compliance and effectiveness monitoring efforts; the size of the project area; and other relevant factors;
  - (f) Monitoring results shall be made available to the public; and
  - (g) The Water Board may include as a condition of a waiver the payment of an annual fee established by the State Water Resources Control Board (State Water Board). (At the time of adoption of this Timber Waiver, CA Assembly Bill 1492 precludes the charging of fees for regulation of timber harvest and vegetation management activities).
5. The Lahontan Regional Water Quality Control Board (Water Board) acknowledges the State Water Resources Control Board (State Board) and the USDA Forest Service signed a Management Agency Agreement in 1981 that recognized the USDA Forest Service as a water quality management agency for its lands. The Water Board is aware of the potential for the development of a statewide regulatory action by the State Water Board for vegetation management and other activities on National Forest lands. If, during the period that this Lahontan 2014 Timber Waiver is in effect, the State Board adopts a new statewide regulatory action for vegetation management, then the Water Board will consider revisions to the Timber Waiver consistent with the adopted provisions.
6. The Basin Plan contains water quality standards and implementation measures for specific watersheds. Because of the high quality waters found in the Lahontan Region, additional conditions beyond current state and federal forestry-related regulations are included in this waiver to ensure protection of water quality and compliance with the Basin Plan. In the Lake Tahoe, Little Truckee River, and Truckee River Hydrologic Units (HUs), the Water Board adopted waste discharge prohibitions to limit soil erosion and sediment delivery in and around surface waters and their associated floodplains and Lake Tahoe Stream Environment Zones (SEZs). The Water Board has identified extremely fine sediment (less than 16 micrometers in size) to be the primary cause of clarity loss in Lake Tahoe and the US EPA adopted a Total Maximum Daily Load (TMDL) for sediment and nutrient discharges to Lake Tahoe in August 2011. The US EPA adopted a TMDL for sediment discharge to the Truckee River in September 2009 focusing on controlling sediment from roads and land disturbances. Therefore, this waiver adds additional conditions and requirements within the Lake Tahoe, Little Truckee River, and Truckee River HUs to ensure compliance with the Basin Plan.
7. Soil compaction and deformation depends upon soil moisture content, soil characteristics, organic content within the soil, and compaction forces. Geotechnical Engineers, when striving to achieve compacted soils for construction purposes, have developed the term "optimum moisture content by weight" to describe the moisture level at which soils are most conducive to being compacted. Soil that lacks sufficient moisture, below the soil's optimum moisture content by weight, is less susceptible to being compacted to that soil's maximum dry density. Soils with a high organic

content are less susceptible to compaction. Repeated heavy traffic produces additive forces that can compact a soil. Soil that contains moisture at its optimum moisture content by weight is highly susceptible to compaction. Soils at or above optimum moisture content will commonly exhibit wheel or track ruts that are typically deeper than about two to three inches. Soil with more moisture than its optimum is highly susceptible to deformation and this can be observed when heavy equipment operates in those areas and either deep ruts (>3 inches) form or the soils deflect under the weight and are observed to “pump”. The deflection or “pumping” is from the excess water content in the soil. Optimum soil moisture is specific to each soil type and the moisture content within the soil depends on many factors, including precipitation, snowmelt, runoff, organic content, and groundwater levels. Operable soil conditions are defined in Attachment A, and must be restricted to times when the soil lacks sufficient moisture, below the soil’s optimum moisture content to protect water quality.

8. The Water Board recognizes the need statewide to address the current and growing threat of catastrophic wildfire and impacts from climate change. Efforts are underway on a statewide basis to study and address climate change and its effects on forest health. Decades of fire suppression have resulted in unhealthy forests with thick stands of trees and vegetation that require thinning, and in some cases, prescribed fire. Many of these activities need to occur in areas adjacent to waterbodies where there is a higher potential to adversely impact water quality than if the same activity was to occur away from a waterbody. Limited quantitative information about site specific effects of certain timber harvest and vegetation management activities conducted in these areas are known. On the other hand, the water quality effects from wildfire in these areas can be significant and, to some extent, may be estimated based on fire intensity and predicted hydrology. Extensive research has been conducted that supports the efficacy of proactive fuel treatments in limiting the intensity and environmental impacts of wildfires.

The Water Board also recognizes the need to actively manage forests to protect and preserve forest health. Aspen is considered a keystone species in the montane zone of the Sierra Nevada Range, as aspen communities are critical for maintaining biodiversity in western landscapes. Concerns exist related to the observed decline in the health and distribution of aspen stands throughout this area. In order to prevent the replacement of aspens by conifers in the Sierra Nevada, active management will be required. Thinning conifers in riparian areas has been shown to stimulate aspen suckering, and it is hoped that this prescription will result in improved health and distribution of aspen stands within the Sierra Nevada region.

The Water Board recognizes a need for more information on the impacts and appropriate mitigation measures for new and innovative vegetation management activities, including but not limited to, aspen stand restoration/regeneration and equipment use and pile burning within riparian areas. On May 14, 2009, the Water Board adopted the Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region (Resolution No. R6T-2009-0029; 2009 Timber Waiver), which allowed

research and demonstration activities to be conducted in sensitive areas in order to find out more information on the impacts and appropriate mitigation measures for the new and innovative vegetation management practices. The Water Board is allowing these innovative activities to continue under this waiver, and to ensure these innovative activities do not cause a potentially significant effect on the environment, Water Board directs its staff to:

- (a) Impose additional monitoring, such as quantitative monitoring of impacts to soils (compaction, infiltration rate, etc.), ground cover inventories, vegetation recovery, or water quality analysis (see Conditions 5 and 6 of Category 6);
  - (b) Ensure plans include appropriate design features to prevent or limit impacts to water quality;
  - (c) Impose specific environmental triggers or thresholds that must not be exceeded during implementation;
  - (d) Ensure plans contain specific management response(s) in the event that triggers or thresholds are reached;
  - (e) Consider the need to require the project proponent to submit the proposal for external peer review in order to evaluate the appropriateness of the proposed research or demonstration project implementation or analysis; and
  - (f) Notify the public of projects requiring a prohibition exemption a minimum of ten days before such an exemption and coverage under this waiver is considered by the Executive Officer, except for prohibition exemptions which are granted as part of this Timber Waiver (Attachment N).
9. During the term of the 2009 Timber Waiver, the Water Board found that the results of the USFS-Lake Tahoe Basin Management Unit Heavenly Valley Creek Stream Environment Zone Demonstration Project (USFS-LTBMU, 2008) provided sufficient evidence that the operation in the SEZ of cut-to-length (CTL) equipment with ground pressures less than 13 pounds per square inch (psi) did not result in the permanent disturbance of soils, and therefore there was a low risk of the soils discharging to a waterbody via runoff, slumping, or wind erosion. These results are sufficient for allowing future activities using this equipment on similar soils to proceed without requiring a Basin Plan prohibition exemption when monitoring to verify operable soil conditions occurs. Additionally, the results will be considered sufficient for use of the same or similar low ground pressure equipment under comparable conditions elsewhere in the Lahontan Region.
10. Hand-thinning operations within SEZs and other sensitive areas result in a large volume of material (also referred to as slash), which poses a challenge in being removed efficiently in a manner that causes the least disturbance to the sensitive area. The practice of using hand crews to pile and burn slash can be an effective and efficient method for reducing the fuel load in those sensitive areas. Hand thinning crews are the least disruptive to the sensitive area soils as compared to operating mechanized equipment, which has the potential to disturb sensitive soils and vegetation. The 2009 Timber Waiver determined that creating certain-sized slash piles that cover no more than 30% acre in the SEZ, and that burning up to half of those piles (i.e., piles covering up to 15% of the SEZ area) in any given year,

creates a less than significant impact to the resources. Building and burning small piles of this slash in situ within the SEZs is an effective way to remove the fire danger from these sensitive locations; however, this practice often leaves burn scars in which the unique soil functions may be lost and exposes the bare soil to re-colonization by invasive species and potential erosion problems. The 2009 Timber Waiver did not specify a performance standard for vegetative recovery of the burn scar in the SEZ; rather it specified that slash piles not exceed ten feet diameter by five feet high. Research has since shown that the size of the material in the burn pile has more influence on the intensity of the soil impacts than the size of the pile itself, so the pile size specification in the 2009 Timber Waiver is being replaced with a requirement that burn scars show vegetative recovery within two growing seasons.

This Timber Waiver modifies the 2009 Waiver by requiring project implementers to ensure that burn scars show vegetative recovery prior to allowing additional slash pile burning in that acres of the SEZ. Pile burning appears to have a moderate (impacting water repellency and porosity) to severe (impacting infiltration and the native plant community) effect on the physical properties of soils. Research has also shown that soil bacteria and fungal mycelium, along with their nutrient-cycling processes, may be impacted at relatively low temperatures; additionally, carbon and nitrogen may be increased and liberated. Individually monitoring each pile, post-burn, to determine whether the specific soil functions unique to these environments have been impacted is impractical. Monitoring of vegetative recovery within these burn scars to ensure the soil functionality has not been impacted, and is being restored, is more practical. There currently exists little literature regarding what is an acceptable percentage of vegetation colonization in order for vegetative recovery to be considered successful.

Vegetative recovery of burn pile scars can be sped up with actions either before or after the pile is burned. Research has shown that by raking off the organic duff (surface) layer from the area the pile is to be built upon, and raking back this duff post-burn restores resilience and greatly increases recovery of soil functionality within a relatively short time frame. Raking the duff into a pile along the downhill side of the burn pile may also act as a deterrent to any potential erosion. Raking the duff back increases roughness, encouraging re-colonization and assisting infiltration. Raking native plant seeds into the burn scar soil can speed up the time to vegetative recovery.

11. This Timber Waiver allows pile burning within Waterbody Buffer Zones (WBBZs) and SEZs if the projects meet the requirements of Attachment Q, "Required Management Actions for Pile Burning within Waterbody Buffer Zones and Stream Environment Zones Under Timber Waiver Category 6." Enrollees under the 2009 Timber Waiver who proposed slash piling and burning within SEZs were required to provide Water Board staff with the information necessary to justify a Basin Plan prohibition exemption and wait for a 10-day public review and comment period prior to the Water Board's Executive Officer granting an exemption to proceed. The granting of project level Basin Plan prohibition exemptions under this process was repeatedly done during the term of the 2009 Timber Waiver without public concern or significant environmental impact being

identified. In the interest of streamlining the permitting process for hand-thinning activities within SEZs, and based on the information provided in Finding #9, above, this Timber Waiver includes conditional Basin Plan Prohibition Exemption coverage for limited slash piling and burning within SEZs (Attachment N).

12. Pursuant to Water Code section 13269, subdivision (a)(3), the Water Board may waive monitoring requirements for discharges that it determines do not pose a significant threat to water quality.

- (a) For projects conducted under the criteria and conditions of Category 1, which are set forth in Section D, the Water Board waives monitoring requirements. Category 1 covers only those activities:
  - i. conducted near structures, or in or near areas zoned as residential, commercial or industrial. The Water Board finds that these activities do not pose a significant threat to water quality due to their limited scale and typical location and adherence to Category 1 eligibility criteria and conditions;
  - ii. conducted under a Forest Fire Prevention Exemption issued by the California Department of Forestry and Fire Protection (CAL FIRE) pursuant to California Code of Regulations (CCR), title 14, section 1038, subdivision (i). The Water Board finds that these activities do not pose a significant threat to water quality because of the CAL FIRE requirements that limit the scale of these activities and adherence to Category 1 eligibility criteria and conditions which also limits these activities; or
  - iii. conducted under a Dead, Dying, Diseased Exemption issued by CAL FIRE pursuant to California CCR, title 14, section 1038 (b) without exceptions to 1038 (b) condition nos. 6 or 9. The Water Board finds that these activities do not pose a significant threat to water quality because of the CAL FIRE requirements and adherence to Category 1 eligibility criteria and conditions.
- (b) For projects conducted under the criteria and conditions of Category 2, which are set forth in Section D, the Water Board waives monitoring requirements. Category 2 covers only those activities that are conducted by hand crews and low-ground-pressure chippers, brush mowers, or similar equipment for onsite processing of materials cut by hand crews. The Water Board finds activities that comply with the criteria and conditions for Category 2 set forth in Section D do not pose a significant threat to water quality.
- (c) For projects conducted under the criteria and conditions of Category 3, which are set forth in Section D, the Water Board waives monitoring requirements. Category 3 applies only to those activities conducted for post-wildfire rehabilitation, and covers activities to minimize threats to life, property, water quality, and natural and cultural resources. These activities are either limited in scope or specifically intended to control erosion and sedimentation. The Water Board finds activities conducted under Category 3 do not pose a significant threat to water quality.

13. Between 1988 and 2003, the Water Board waived waste discharge requirements for timber harvest activities operating under approved CAL FIRE Timber Harvesting Plans or federal timber sales, according to Resolution No. 6-88-18, Waiver for Waste Discharge Requirements for Specific Types of Discharges. In 2003, after a legislatively-imposed expiration of Resolution No. 6-88-18, the Water Board adopted the initial Timber Waiver. Subsequent Timber Waivers were adopted in accordance with the requirements of Water Code section 13269, which stipulated that waivers be limited to five years in duration. Those waivers were adopted in 2007 and 2009. Following the 2007 Angora fire in South Lake Tahoe, the Water Board adopted Resolution R6T-2009-0029 (the 2009 Timber Waiver), revising R6T-2007-0008 (the 2007 Timber Waiver). This early revision was done in response to the May 2008 Proclamation by the Governor of California encouraging the Water Board to consider recommendations made by the California-Nevada Tahoe Basin Fire Commission to implement actions to improve planning and streamline regulatory processes for fuel reduction activities. This revised Timber Waiver provides consistency in approach with the findings and commitments in the Joint Proclamation issued by California Governor Jerry Brown and Nevada Governor Brian Sandoval August 19, 2013, supporting continued strong bi-state, multi-agency cooperation and a strong wildfire protection, preparedness, and response capability within the Tahoe Basin.

The Water Board is considering a revised Timber Waiver at this time to address:

- (a) The five-year time limit imposed by Water Code section 13269;
  - (b) Sections of the R6T-2009-0029 that have been identified by Water Board staff as vague, duplicative, unnecessarily burdensome to staff or operators, or outdated due to recent scientific research; and
  - (c) Specific requests made by the Water Board and regulated public and agencies concerning operable soil conditions off roads, slash piling and burning in Lake Tahoe SEZs, and the Monitoring and Reporting Program.
14. Certain terms used in this Timber Waiver have a specific, regulatory definition. The definition of these terms as listed in Attachment A may differ from common, dictionary definitions. All other terms shall have the same definitions as prescribed by the California Forest Practice Rules (FPRs) (CCR, title 14, section 895.1 et seq.), California Public Resources Code (PRC) section 4528, subdivision (f), and the Porter-Cologne Water Quality Control Act (Water Code section 13000 et seq.). Definitions contained in Water Code section 13050(d) controls for the purpose of the Timber Waiver.
15. As defined in Attachment A, "Enrollee" means the landowner(s), any duly authorized representative of the landowner(s), and anyone working on behalf of the landowner(s) in the conduct of timber harvest and vegetation management. Enrollee includes any "person" as that term is defined by Water Code section 13050, subdivision (c).

16. The Water Board adopted the Basin Plan that establishes beneficial uses, water quality objectives, waste discharge prohibitions, and implementation policies that apply to waters of the state and waste discharges to waters of the state within the Lahontan Region. The Basin Plan contains water quality objectives developed to protect the waters for the listed beneficial uses. The factors in Water Code section 13241, including economic considerations, were considered as required during the development of water quality objectives. Prohibitions, provisions, and conditions contained in this Timber Waiver implement these previously developed water quality objectives. Compliance with water quality objectives will protect the waters for beneficial uses as identified in the Basin Plan.
17. State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintenance of High Quality Waters in California") requires that the Water Board regulate discharges of waste to waters of the state to protect existing high quality waters and achieve the highest water quality consistent with maximum benefit to the people of the state. It further requires that dischargers meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state will be maintained. This Timber Waiver is consistent with Resolution No. 68-16 because it requires compliance with applicable water quality control plans, including applicable water quality objectives, prohibits the creation of pollution or nuisance, and sets forth conditions that require the implementation of additional management practices (in addition to those required in the FPRs [CCR, title 14, section 895.1 et seq] and U.S. Forest Service Best Management Practices guidance manuals) to assure protection of beneficial uses of waters of the state and maintenance of the highest water quality consistent with maximum benefit to the people of the state.
18. The Timber Waiver is consistent with the Basin Plan and is in the public interest as described below.
  - (a) Compliance with the conditions of the Timber Waiver will result in protection of water quality.
  - (b) Without the Timber Waiver, dischargers would be required to submit a report of waste discharge and wait for up to 140 days for the Water Board to prescribe individual waste discharge requirements. Due to limited staff resources, the Water Board would be unable to prescribe requirements in every case, allowing activities to move forward after a lengthy delay without Water Board permit. The Timber Waiver is a regulatory option imposing enforceable conditions that can be used by the Water Board to address a greater percentage of timber harvest activities, while allowing limited resources to be directed to the activities with greatest water quality risk.
  - (c) Forest fuel hazard reduction efforts have increased statewide to address the current and growing fire threat from decades of fire suppression. This revised Timber Waiver continues to respond to the need for expedited permitting for lower-impact fuels hazard reduction and forest enhancement activities, while still maintaining water quality protection through conditions and a monitoring program

(under certain circumstances) described in the attachments. This approach balances the need to reduce fire risk quickly while ensuring appropriate management practices and mitigation for water quality impacts are still implemented.

- (d) The Timber Waiver contains conditions requiring compliance with monitoring and reporting programs for some categories of activities based on the level of potential threat to water quality pursuant to Water Code section 13267, subdivision (b)(1). The required monitoring will assist in the protection of water quality and in the verification of the adequacy and effectiveness of Timber Waiver conditions pursuant to Water Code section 13269, subdivision (a)(3).
- (e) The Timber Waiver contains conditions that require compliance with the Basin Plan.
- (f) The Timber Waiver prohibits the creation of pollution, contamination or nuisance as defined in Water Code section 13050.
- (g) Violations of Timber Waiver conditions are subject to enforcement remedies including, but not limited to Water Code section 13350 in the same manner as enforcement of waste discharge requirements.
- (h) Water Board staff will continue to participate in the pre-harvest review of proposed timber activities under the FPRs. This provides a process for the incorporation of water quality protective measures into Timber Harvest Plans beyond those required by the FPRs.

19. This Timber Waiver shall not create a vested right to discharge waste and all such discharges shall be considered a privilege, as provided for in Water Code section 13263, subdivision (g). The Water Board Executive Officer may terminate the applicability of the Timber Waiver described herein to any activity at any time when such termination is in the public interest and/or the activity could affect the quality of waters of the state for beneficial uses.

20. On May 14, 2009, the Water Board adopted a mitigated negative declaration in conjunction with the adoption of the 2009 Timber Waiver, in accordance with section 15072 of the CEQA Guidelines (CCR, title 14, section 15000 et seq.), determining there will be no significant adverse impacts to the environment from waiving waste discharge requirements for the categories of activities specified within the 2009 Timber Waiver ("2009 Mitigated Negative Declaration," SCH No. 2009012005). The Regional Board has reviewed that 2009 Mitigated Negative Declaration and has determined, in light of recent research and proposed updates to the 2009 Timber Waiver, that none of the conditions set forth in section 15162 of the CEQA Guidelines calling for the preparation of a supplement EIR or negative declaration have occurred. These findings are supported in an addendum prepared by the Regional Board. Both the 2009 Mitigated Negative Declaration and the addendum reflect the Regional Board's independent judgment and analysis, which concludes that with the implementation of mitigation, which have been incorporated into the requirements of this Timber Waiver, no significant adverse impacts will occur from the adoption of this Timber Waiver. The Regional Water Board will file a Notice of Determination within five days from the issuance of this order.



21. The Water Board held a public hearing on April 10, 2014, in South Lake Tahoe, California, and considered all evidence concerning this matter.

**IT IS HEREBY ORDERED** that in order to be enrolled under this Timber Waiver, an enrollee must meet applicable eligibility criteria and requirements for that category of activities covered by this Waiver, including the General Provisions and all applicable general and category-specific conditions of this Timber Waiver, as set forth below.

**B. GENERAL PROVISIONS**

1. Pursuant to Water Code section 13269, subdivision (a), the Water Board waives requirements to submit reports of waste discharge and obtain waste discharge requirements for persons proposing or conducting activities which meet the eligibility criteria and comply with the conditions and general provisions set forth in this Timber Waiver.
2. The Water Board anticipates that most activities will proceed under a single category of the Timber Waiver. However, if a project is phased, or divided geographically, such that portions qualify under Category 1, 2, or 3; and other portions qualify under Category 4, 5, or 6; the enrollee has the option of enrolling such phases or portions under different categories. Water Board notification is only required for the portions of projects or activities that qualify under Category 4, 5, or 6.
3. The Water Board does not waive the filing of a report of waste discharge or waive waste discharge requirements for persons proposing projects that include activities with impacts that are not mitigated to less-than-significant levels, such as those identified in a CEQA environmental impact report, or a National Environmental Policy Act (NEPA) or Tahoe Regional Planning Agency (TRPA) environmental impact statement. Not all timber harvest and vegetation management activities proposed in the Lahontan Region will be eligible for this Timber Waiver. Enrollees proposing activities that are not eligible for this Timber Waiver must file a report of waste discharge with the Water Board pursuant to Water Code section 13260.
4. This Timber Waiver shall not create a vested right to discharge waste and all such discharges shall be considered a privilege, as provided for in Water Code section 13263, subdivision (g). The Water Board Executive Officer may terminate the applicability of the Timber Waiver described herein to any activity at any time when such termination is in the public interest and/or the activity could affect the quality of waters of the state for beneficial uses.
5. This Timber Waiver shall become effective on April 10, 2014 and shall expire on April 10, 2019 unless terminated or renewed by the Water Board. Discharges regulated under this Timber Waiver are not authorized, and waste discharge requirements are not waived, after April 10, 2019 unless this Timber Waiver is renewed by Water Board action.

6. Discharges currently regulated under the 2009 Timber Waiver may proceed under the conditions of that waiver, or may be re-enrolled under this 2014 Timber Waiver. After April 9, 2014 no new applications for permit coverage under Resolution No. R6T-2009-0029 (the 2009 Timber Waiver) will be accepted.
7. Timber harvest and vegetation management activities approved by CAL FIRE under an Exemption or Emergency Notice may be eligible for coverage under Timber Waiver Categories 1, 2, 3, 4, or 6, depending on the scope of the proposed activities.
8. A monitoring and reporting program is adopted in conjunction with this 2014 Timber Waiver and shall be adhered to by all waiver enrollees, using the attached monitoring forms adopted by the Water Board.
9. Pursuant to Water Code section 13269, Timber Waiver enrollees may request a waiver of monitoring or propose an alternate monitoring and reporting program, subject to approval by the Executive Officer. The Executive Officer may impose additional or revised monitoring and reporting requirements pursuant to Water Code section 13267. The Executive Officer may modify application, monitoring, and reporting forms (Attachments C through M).

### **C. GENERAL CONDITIONS**

1. Activities must be conducted in compliance with the Basin Plan, and other applicable laws, regulations, and plans.
2. Wastes, including but not limited to, petroleum products, soil, silt, sand, clay, rock, felled trees, slash, sawdust, bark, ash, pesticides, must not be discharged to surface waters or be deposited in locations where such material may discharge to surface waters. If discharge of wastes to surface waters occurs (not previously authorized by the Water Board), the enrollee must notify the Water Board by telephone or email within 24 hours of detection of the discharge or the next business day, whichever comes first.
3. **Condition for activities within the Little Truckee River, Truckee River, or Lake Tahoe HUs only:** If timber harvest and vegetation management activities are planned within 100-year floodplains of the Little Truckee River, Truckee River, or Lake Tahoe HUs, SEZs, or high erosion hazard lands (Bailey Land Classification 1a, 1c, or 2) of the Lake Tahoe HU, waste discharge prohibitions may apply. The Water Board grants a conditional Basin Plan Prohibition Exemption in certain cases as described in Attachment N, for slash piling and burning in Lake Tahoe HU SEZs that is conducted under Waiver Category 6, and in accordance with the requirements of Attachment Q. Review Attachments N and Q to verify if any proposed activities would need a Basin Plan prohibition exemption prior to proceeding.
4. Activities conducted under the Timber Waiver must comply with the category-specific eligibility criteria and conditions, including monitoring and reporting requirements where specified. The enrollee must conduct activities in accordance

with information submitted in the application for waiver coverage, if one is required. For Categories 4, 5, and 6, the enrollee must conduct monitoring and reporting pursuant to Water Code section 13267 unless alternate monitoring and reporting requirements have been approved by the Executive Officer.

5. Timber harvest and vegetation management activities must be conducted in accordance with any design features, management actions, mitigation measures, and monitoring plans developed as part of complying with CEQA, NEPA, the FPRs, and/or TRPA environmental analysis requirements.
6. Timber harvest and vegetation management activities subject to this Timber Waiver must not create a pollution, contamination, or nuisance, as defined by Water Code section 13050, subdivisions (k), (l), and (m).
7. All equipment used must be monitored for leaks, and removed from service if necessary to protect water quality. All spills must be immediately contained and spilled materials and/or contaminated soils must be properly disposed. An emergency spill kit adequate to contain spills that could result from onsite equipment must be at the project site at all times of equipment use.
8. This Timber Waiver does not permit any illegal activity, and does not preclude the need for permits or licenses that may be required by other governmental agencies, or other approvals by the Water Board such as discharges subject to a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act, including silvicultural point sources as defined in 40 Code of Federal Regulations, section 122.27. This waiver is not a substitute for state Water Quality Certification (WQC) under section 401 of the federal Clean Water Act which is required if a federal permit, such as a Clean Water Act section 404 permit, is required. Also, persons practicing forestry must ensure that they maintain appropriate licenses and certifications pursuant to Public Resources Code sections 752 and 753.
9. Pursuant to Water Code section 13267 subdivision (b) and Water Code section 13269 subdivision (a), any proposed material change to the activities proceeding under the Timber Waiver must be reported to Water Board staff in advance of implementation of any such change. Material changes include, but are not limited to:
  - (a) Change of project location or increase in size;
  - (b) The addition of winter period operations;
  - (c) Relocation or addition of watercourse crossings; or
  - (d) Addition or relocation of roads or skid trails into a WBBZ.
10. Any proposed material change to a project that does not result in a change in qualification under this waiver to a higher Category (e.g., Category 4 to Category 4) must be reported to the Water Board prior to implementation. Material changes to Category 6 projects shall not proceed until Category 6, Condition 1 is satisfied.

Any proposed material change to a project that results in a change in qualification

under this waiver to a higher category (e.g., Category 2 to 4, or Category 4 to 6) must follow the notification requirements as if it was a new application.

11. A report of waste discharge must be filed with the Water Board pursuant to Water Code section 13260 for any proposed material change to the activities proceeding under the Timber Waiver that would result in ineligibility for Timber Waiver coverage.
12. For the purpose of performing inspections and conducting monitoring, Water Board staff must be allowed reasonable access onto property where timber harvest and vegetation management activities are proposed, are being conducted, or have been terminated or completed. Inspections and monitoring may include sample collection, measuring, and photographing/taping to determine compliance with waiver conditions and eligibility criteria. Such inspections and monitoring are consistent with Water Code section 13267, subdivision (c), PRC section 4604, subdivision (b)(1), and other applicable laws.

Prior to, or immediately upon entering the property, Water Board staff will attempt to contact the site owner, persons performing the timber harvest and vegetation management activities, or other on-site representative(s) in order to inform the landowner or persons onsite of each inspection, and to discuss any safety considerations. If consent to access to property is unreasonably withheld, the Executive Officer may terminate the applicability of the Timber Waiver.

13. **Condition for Categories 4, 5, or 6:** For the purpose of observing, inspecting, photographing, digitally recording or videotaping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with the eligibility criteria, conditions, or provisions of this Timber Waiver, enrollees agree to allow Water Board staff:
  - (a) Entry at any time, with or without advance notice, onto: (1) the real property where timber harvest and vegetation management activities covered under this Timber Waiver are proposed, are being conducted, or have concluded; and (2) any and all outdoor areas in the control or ownership of the enrollee, in the vicinity of and downstream of timber harvest and vegetation management activities; and
  - (b) Access to and permission to copy any record required to be kept under the conditions of this Timber Waiver, including, but not limited to, any self-monitoring records and/or equipment used to fulfill monitoring requirements.

#### **D. TIMBER WAIVER CATEGORIES**

<b>Category 1: Defensible space, fire prevention, dead-dying-diseased tree removal, and construction activities</b>
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##### Eligibility Criteria:

Activities that may proceed under this category are those:

- (1) Undertaken to comply with state, local, or county defensible space requirements, including PRC section 4291 requirements, OR
- (2) Conducted on undeveloped lots (as defined in Attachment A) up to three acres in size for the purpose of fuels reduction and/or construction activities, OR
- (3) Conducted on public lands or with public funding (where a Registered Professional Forester (RPF), Federal Forestry Professional, or Natural Resource Professional has developed and oversees the plan) to provide up to a 300-foot defense zone adjacent to subdivision boundaries, private parcel lot lines, and/or around structures and facilities (not including linear features such as roads, trails, or utility corridors), OR
- (4) Conducted under a CAL FIRE issued Forest Fire Prevention Exemption and in compliance with CCR, title 14, section 1038, OR
- (5) Undertaken to remove isolated hazard trees in response to an imminent threat to life or property, OR
- (6) Conducted under a CAL FIRE issued Dead, Dying, Diseased Exemption in compliance with CCR, title 14, section 1038(b) without any exceptions to section 1038(b) condition nos. 6 or 9.

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above are not required to notify, apply, or report monitoring to the Water Board if they comply with the following conditions:

- (1) Timber harvest and vegetation management activities must not cause or create erosion, destabilization of stream banks, temperature increases in waterbodies, disturbance to non-target WBBZ (as defined in Attachment B) vegetation, or concentrated surface runoff.
- (2) All areas disturbed by activities must be stabilized (as defined in Attachment A) at the conclusion of the activity or before the winter period (as defined in Attachment A), whichever is sooner.
- (3) Chipped and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs, chipped and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (4) Slash piles must not be built or burned within WBBZs, SEZs (as defined in Attachment A), or 100-year floodplains (as defined in Attachment A).

- (5) Equipment, including tractors and vehicles, must not be driven into SEZs, wet areas, or WBBZs , except over existing roads or watercourse crossings where vehicle tires or tracks remain dry.
- (6) The operation of equipment, including tractors and vehicles, shall minimize soil disturbance to the maximum extent practicable.
- (7) No tractor, vehicle, or equipment use on saturated soils (as defined in Attachment A).
- (8) All activities conducted under Category 1 must comply with the General Conditions of this Timber Waiver and meet one of the category-specific eligibility criteria listed above.

<b>Category 2: Activities conducted by hand crews (as defined in Attachment A) including thinning operations and prescribed fire</b>
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Eligibility Criteria:

Activities that may proceed under this category must meet all of the following eligibility criteria:

- (1) Activities shall be conducted by hand, except for low impact equipment, see Eligibility Criteria 2(a) below, to assist hand crew operations.
- (2) Tractor, vehicle, and equipment access shall be limited to existing roads with the following exceptions:
  - (a) Low impact equipment with ground pressures less than 10 psi, such as chippers, brush mowers, or similar equipment for onsite processing of materials cut by hand crews; and
  - (b) Single passenger all-terrain vehicles (ATVs) or snowmobiles.
- (3) No construction or expansion of roads, crossings, landings, staging areas, etc.

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above are not required to notify, apply, or report monitoring to the Water Board if they comply with the following conditions:

- (1) On existing roads, tractors, vehicles, low-ground-pressure chippers or other equipment shall not be operated during saturated soil conditions (as defined in Attachment A).
- (2) Operation of ATVs, chippers, brush mowers, or similar equipment off roads must always occur at distances greater than 25 feet from a waterbody and when at least one of the following conditions occurs:

- (a) Soils are operable (as defined in Attachment A); or
  - (b) Hard-frozen soil conditions (as defined in Attachment A) exist; or
  - (c) Snow depth is sufficient to not allow visible disturbance of soils.
- (3) Prior to the commencement of activities within WBBZs (as defined in Attachment B), trees with a diameter-at-breast-height (DBH, as defined in Attachment A) greater than three inches planned for removal, or trees designated for retention, must be marked (including a base mark below the cutline) or designated by written prescription and/or sample mark. However, all trees with a DBH greater than 14 inches planned for removal within WBBZs must be marked (including a base mark below the cutline). Marking or written prescription must be done by either a(n):
- (a) RPF or an individual under the direct supervision of a RPF;
  - (b) Federal Forestry Professional (as defined in Attachment A) or an individual under the direct supervision of a Federal Forestry Professional; or
  - (c) Natural Resource Professional or an individual under the direct supervision of a Natural Resource Professional.
- (4) Activities must not cause or create erosion, destabilization of stream banks, temperature increases in waterbodies, disturbance to non-target WBBZ vegetation, or concentrated surface runoff.
- (5) All areas disturbed by timber harvest and vegetation management activities must be stabilized at the conclusion of operations or before the winter period (as defined in Attachment A), whichever is sooner.
- (6) Chipped and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs chipped and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (7) The following conditions apply to prescribed fire:
- (a) Areas burned within WBBZs must be left in a condition such that waste, including ash, soils, and/or debris, will not discharge to a waterbody.
  - (b) If fuel breaks are constructed, effective waterbreaks must be constructed at the end of burning operations or prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.
  - (c) Broadcast burning (as defined in Attachment A) is allowed as long as the prescription does not include active ignition within WBBZs
  - (d) Burn piles may be placed within WBBZs under all of the following circumstances:
    - i. Piles must not be located within 100-year floodplain (as defined in Attachment A) of any watercourse.
    - ii. Piles must be located a minimum of 25 feet from any waterbody.
    - iii. Piles must be limited in size to no more than 10 feet in diameter;

- iv. No more than 10% of a treatment acre within the WBBZ shall be covered in piles.; and
- v. No placement or burning of piles within SEZs (as defined in Attachment A) in the Lake Tahoe HU.

**(Note: Prescribed fire within WBBZs that do not meet the above conditions may be authorized pursuant to an activity-specific notification under Category 6. See General Provision 2, in Section B, above.)**

- (8) All activities conducted under Category 2 must comply with the General Conditions of this Timber Waiver and meet the category-specific eligibility criteria listed above.

### **Category 3: Post-fire emergency rehabilitation**

#### Eligibility Criteria:

Activities implemented to minimize threats to life or property, and/or to stabilize soil and prevent unacceptable degradation to natural and cultural resources resulting from the effects of a wildfire and suppression of a wildfire. Non-post-fire activities conducted under a CAL FIRE Emergency Exemption (e.g., emergency removal of trees dead or dying as a result of animal or plant infestations, extreme weather impacts, or pollution, or removed for emergency repair or maintenance of roads, or removed due to a significant fire threat, etc.) do not qualify for Category 3. Non-emergency activities initiated more than 60 days of a wildfire being controlled, are also not eligible. All post-fire rehabilitation projects, either Federal or Non-Federal, which cannot meet these criteria or conditions, must apply for coverage under Categories 4 or 6.

#### Conditions:

- (1) Land owners or their representatives planning or conducting activities described above must contact Water Board staff in writing within seven (7) days of initiating these activities and provide the location and a description of the activities being conducted.
- (2) **Condition for activities within the Little Truckee, Truckee River, or Lake Tahoe HUs only:** If timber harvest and vegetation management activities are planned within 100-year floodplains (as defined in Attachment A) of the Little Truckee River, Truckee River, or Lake Tahoe HUs, or Lake Tahoe HU SEZs (as defined in Attachment A), waste discharge prohibitions may apply. Review Attachment N to verify if any proposed activities would need a Basin Plan prohibition exemption prior to proceeding.
- (3) Slash, chipped, and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs (as defined in Attachment B) compressed slash, chipped, and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.



- (4) Post-fire emergency activities conducted under Category 3 are exempt from monitoring and reporting unless the Executive Officer imposes individual monitoring requirements based upon potential water quality impacts related to the activities. If a U.S. Forest Service Burned Area Emergency Response (BAER) report or similar is prepared independent of Water Board requirements, the land owner or representative must make a copy available to Water Board staff upon request.
- (5) All activities conducted under Category 3 must comply with the General Conditions of this Timber Waiver, set forth in Section C, above, and meet the category-specific eligibility criteria listed above.

<p><b>Category 4: Activities that rely on existing roads, meet the following 11 criteria, and may include winter-period operations</b></p>
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Eligibility Criteria:

Activities that may proceed under this category must meet the following eligibility criteria:

- (1) No construction of new temporary or permanent roads.
- (2) No widening of watercourse crossings or road surfaces.
- (3) No construction of new watercourse crossings except for the construction of over-snow watercourse crossings.
- (4) The use of up to one crossing of a dry Class III watercourse per  $\frac{1}{4}$  mile of stream length that does not disturb the bed or banks of the stream channel. Prior to use operable (as defined in Attachment A) soil conditions must exist and the crossing shall be passable by standard production 4-wheel drive vehicles without any grading or excavation of the stream bed or banks or crossing approaches.
- (5) No tractor, vehicle, or equipment operations within SEZs (as defined in Attachment A) or WBBZs (as defined in Attachment B), except for:
  - (a) Use and maintenance of existing roads and crossings;
  - (b) Up to one crossing of a dry Class III watercourse per  $\frac{1}{4}$  mile of stream as described in Criteria 4, above;
  - (c) Use of equipment with ground pressures less than 13 psi at distances greater than 25 feet from a waterbody, when soils are operable;
  - (d) When snow depth is sufficient to not allow visible disturbance of soils or
  - (e) When hard frozen conditions exist (as defined in Attachment A)
- (6) No mechanical site preparation (as defined in Attachment A).
- (7) No activities on slopes greater than 60%, except for aerial or cable operations.

- (8) No tractor, vehicle, or equipment operations on slopes greater than 50%.
- (9) No construction of new skid trails on slopes greater than 40%, except over-snow operations.
- (10) No construction of landings requiring earthwork (i.e., grading or excavation) on slopes greater than 20% within 200 feet of a watercourse and where there is potential for sediment delivery to a waterbody due to soil disturbances.
- (11) No tractor, vehicle, or equipment operations on soils with high or extreme erosion hazard rating, known slides, or unstable areas, except over-snow operations.

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above must comply with the following conditions in order to proceed under this Timber Waiver category:

- (1) Submit a complete Category 4 Application Form (Attachment C). Activities may begin upon verification from Water Board staff that an application was received as determined by a notice of receipt from Water Board staff or by confirmation of delivery by the United States Postal Service or other private carrier.
- (2) Pursuant to Water Code section 13267, **Implementation monitoring**, as described in the Category 4 Implementation Monitoring Form (Attachment D), must be completed before November 15 of every year for the duration of activities. Monitoring information must be submitted to the Water Board by January 15 of the following year.
- (3) Pursuant to Water Code section 13267, if tractor, vehicle, or equipment operations occur in the winter period (as defined in Attachment A), the enrollee must comply with the Category 4 **Daily Winter-Period Monitoring Program** (Attachment E) and conduct Winter Implementation Monitoring (Attachment H). Data accumulated during this monitoring must be retained by the enrollee and submitted July 15 of every year.
- (4) Over-snow watercourse crossings may be constructed as long as they are removed at the conclusion of operations or before a rain event if there is a risk of diversion or obstruction of the natural flow of water within the channel. Removal of such watercourse crossings must be done without disturbing watercourse bed or banks.
- (5) Facilities that cross Class I watercourses that support fish must be installed and maintained so as to allow for unrestricted passage of fish during all life stages.
- (6) In the Truckee River, Little Truckee River, and Lake Tahoe HUs, only 13 psi CTL equipment may operate within 100-year floodplains (as defined in Attachment A) or Lake Tahoe SEZs without a Basin Plan prohibition exemption, provided the conditions of Table N1 (in Attachment N) are met. Enrollees proposing other

equipment or activities on volcanic soils must apply for a Basin Plan prohibition exemption for Executive Officer consideration under Category 6 of the waiver.

- (7) Tractor, vehicle, or equipment operations on roads or anywhere outside WBBZs and SEZs must be limited to:
  - (a) Times of the year when soils are not saturated (as defined in Attachment A);  
or
  - (b) Over hard-frozen soil conditions; or
  - (c) When snow depth is sufficient to not allow visible disturbance of soils.
- (8) Prior to the commencement of activities within WBBZs, trees with a DBH greater than three inches planned for removal, or trees designated for retention, must be marked (including a base mark below the cutline) or designated by written prescription and/or sample mark. However, all trees greater than 14-inch DBH planned for removal within WBBZs must be marked (including a base mark below the cutline). Marking or written prescription must be done by either a(n):
  - (a) RPF or an individual under the direct supervision of a RPF;
  - (b) Federal Forestry Professional (as defined in Attachment A) or an individual under the direct supervision of a Federal Forestry Professional; or
  - (c) Natural Resource Professional or an individual under the direct supervision of a Natural Resource Professional.
- (9) Activities must not cause or create erosion, destabilization of stream banks, temperature increases in waterbodies, disturbance to non-target vegetation within WBBZs, or concentrated surface runoff.
- (10) Slash, chipped, and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs, compressed slash, chipped, and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (11) All completed areas disturbed by activities must be stabilized at the conclusion of operations or before the winter period (whichever is sooner). For winter operations, areas must be stabilized prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.
- (13) In areas where tractors, vehicles, or equipment are operated over-snow the following must be clearly marked for operator visibility:
  - (a) All waterbodies;
  - (b) Culverts; and
  - (c) Stream crossings.
- (14) Plowing of roads, landings, and turnouts during over-snow operations must allow for adequate road drainage, and must not:

- (a) Expose soils;
- (b) Damage road surfaces and associated drainage structures; or
- (c) Result in concentrated flows of snowmelt and runoff that has the potential to reach a waterbody.

(15) The following conditions apply to prescribed fire:

- (a) Areas burned within WBBZs must be left in a condition such that waste, including ash, soils, and/or debris will not discharge to a waterbody;
- (b) If fuel breaks are constructed, effective waterbreaks must be constructed at the end of burning operations or prior to sunset if the National Weather Service forecast is a “chance” (30% or more) of rain within the next 24 hours;
- (c) Broadcast burning (as defined in Attachment A) is allowed as long as the prescription does not include active ignition within WBBZs.
- (d) Burn piles may be placed within WBBZs under all of the following circumstances:
  - i. Piles must not be located within 100-year floodplain of any watercourse;
  - ii. Piles must be located a minimum of 25 feet from any waterbody
  - iii. Piles must be limited in size to no more than 10 feet in diameter;
  - iv. No more than 10% of a treatment acre within the WBBZ shall be covered in piles.;
  - v. No placement or burning of burn piles within SEZs in the Lake Tahoe HU;

**(Note: Prescribed fire within WBBZs that do not meet the above conditions may be authorized pursuant to an activity-specific notification under Category 6. See General Provision 2 in Section B above.)**

(16) Pursuant to Water Code section 13267, notify the Water Board in writing at least **30 days prior** to the proposed application of pesticides (as defined in Attachment A), except for application of borax and/or sporax directly to tree stumps. The written notice must include the following:

- (a) Type of pesticide
- (b) Method and area of application
- (c) Projected date of application
- (d) Measures that will be employed to assure compliance with the Basin Plan.  
Subsequent changes to the proposal must be submitted in writing at least 14 days before the application, unless Water Board staff agrees in writing to a shorter notice period.

(17) Upon completion of timber harvest or vegetation management activities, enrollees must submit an Implementation Monitoring Form (Attachment D) and request termination of coverage under the Timber Waiver in accordance with Attachment M, Notice of Activity Completion Form.

The enrollee and the activities remain subject to all applicable Timber Waiver criteria and conditions (including required monitoring and reporting) until a Notice is received from Water Board staff terminating coverage under the Timber Waiver. Prior to approving (or declining) termination, Water Board staff may inspect the project area.

- (18) All activities conducted under Category 4 must comply with the General Conditions of this Timber Waiver, set forth in Section C, above, and meet the category-specific eligibility criteria listed above.

<p><b>Category 5: CAL FIRE approved Plans (including Timber Harvest Plans, Non-Industrial Timber Management Plans, other Plans, and Amendments)</b></p>
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Eligibility Criteria:

Activities eligible under this category must meet the following criteria:

- (1) The Timber Harvest Plan or Nonindustrial Timber Management Plan (Plan) has been approved by CAL FIRE.
- (2) If recommendations have been made by Water Board staff during the CAL FIRE Review Team process, they have been incorporated into the approved Plan or the Timber Waiver application (if not, apply under Category 6, or submit individual Report of Waste Discharge).

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above must comply with the following conditions in order to proceed under this Timber Waiver category:

- (1) Submit a complete Category 5 Application Form (Attachment F). Activities may begin upon verification from Water Board staff that an application was received as determined by a notice of receipt from Water Board staff, or by confirmation of delivery by the United States Postal Service or other private carrier.
- (2) An RPF has clearly indicated (within the approved Plan) whether the proposed activities could occur within or affect the following areas:
  - (a) Aquatic or wetland habitat;
  - (b) Known landslides or unstable areas; and
  - (c) Areas of high or extreme erosion hazard rating.
- (3) An RPF has clearly indicated (within the approved Plan or as an addendum to the Timber Waiver application) whether the following conditions are present within the Plan area:

- (a) Overflow channels resulting from the obstruction of stream flow or stream diversions; or
  - (b) Culverts showing evidence of inadequate flow capacity.
- (4) An RPF has clearly indicated (within the approved Plan or as an addendum to the Timber Waiver application) whether the following activities will occur:
- (a) Use of new or existing skid trails on slopes greater than 50% (or 30% in the Lake Tahoe HU). The identification of individual trails or the shading of areas planned for skid trail construction or reconstruction can satisfy this condition;
  - (b) Construction of new watercourse crossings and/or the modification of existing watercourse crossings;
  - (c) Landings or skid trails (including existing landings and skid trails and/or those to be constructed or reconstructed) proposed for use during timber harvest and vegetation management activities for which any portion of the landing or skid trail lies within a WBBZ (as defined in Attachment B);
  - (d) Equipment operations or chip placement within WBBZs, Lake Tahoe, Truckee River, or Little Truckee River HUs 100-year floodplains (as defined in Attachment A), or Lake Tahoe HU SEZs (as defined in Attachment A); or
  - (e) Prescribed fire within WBBZs, Lake Tahoe HU SEZs, or Lake Tahoe, Truckee River, or Little Truckee River HUs 100-year floodplains.
- (5) If any of the activities or conditions listed above (in Conditions 2 through 4) exist or are proposed, an RPF must provide within the approved Plan or Timber Waiver application, project modifications and/or mitigation measures to avoid any adverse impact(s) to water quality. The project must be conducted in accordance with the Plan and waiver application.

Within the Lake Tahoe, Little Truckee River, and Truckee River HUs, Basin Plan prohibitions may apply (see Attachment N). If an exemption is required, the enrollee must request an exemption and provide additional information in the Plan or as an addendum to the Waiver application to address the required Basin Plan findings and criteria. The Executive Officer must grant an exemption before activities subject to the prohibitions may occur.

- (6) Facilities that cross watercourses that support fish must be installed and maintained so as to allow for unrestricted passage of fish during all life stages.
- (7) Culverts at watercourse crossings in which water is flowing at the time of installation shall be installed using methods to temporarily isolate or divert stream flows from the culvert installation area.
- (8) Permanent watercourse crossings and approaches shall be installed and maintained to accommodate 100-year flood flows and associated debris.
- (9) Vegetation, other than target species (as defined in Attachment A), that is found along waterbodies, or within or bordering meadows and wet areas, must be

retained and protected during timber harvest and vegetation management activities, unless they have been marked or designated by written prescription for removal by an RPF or supervised designee to achieve fuel reduction goals or riparian forest health.

- (10) Pursuant to Water Code section 13267, comply with the **Monitoring and Reporting Program** described in the Category 5 Application Form (Attachment F), or as directed by the Executive Officer. As noted on the Category 5 Application Form, there are two instances where enrollees may temporarily suspend effectiveness and forensic monitoring:
- (a) Under certain extended periods where no site activities will occur between the last effectiveness monitoring after ground disturbing activities are completed and the stocking activities have resumed; or
  - (b) Where project operations have commenced and are then subsequently suspended indefinitely by events above and beyond the control of the enrollee (e.g., large wildfires flooding mills with “black logs” while green logs are refused).

Under either of these temporary monitoring suspensions, the enrollee must agree that no project-related equipment shall enter the project sites during these periods of inactivity, either on or off roads. The enrollee must note these periods of inactivity on the annual monitoring reports and include an explanation for the temporary suspension. During these interim periods, the Timber Waiver shall remain in effect and monitoring shall resume either at the request of Water Board staff at any time (e.g., if a large storm event occurred during this period) or when on site equipment operations have resumed.

- (11) Pursuant to Water Code section 13267, notify the Water Board in writing at least **30 days prior** to the proposed application of pesticides (as defined in Attachment A), except for application of borax and/or sporax directly to tree stumps. The written notice must include the following:
- (a) Type of pesticide;
  - (b) Method and area of application;
  - (c) Projected date of application; and
  - (d) Measures that will be employed to assure compliance with the Basin Plan

Subsequent changes to the proposal must be submitted in writing at least 14 days before the application, unless Water Board staff agrees in writing to a shorter notice period.

- (12) Pursuant to Water Code section 13267, upon completion of timber harvest activities enrollees must request termination of coverage under the Timber Waiver in accordance with Attachment M, Notice of Activities Completion Form.

The project and the enrollee remain subject to all applicable Timber Waiver criteria and conditions (including required monitoring and reporting) until a Notice is received from Water Board staff terminating coverage under the Timber Waiver.

- (13) Activities conducted under Category 5 must comply with the General Conditions of this Timber Waiver, as set forth in Section C, above, and meet the category-specific eligibility criteria listed above.

**Category 6: Activities that do not qualify for Categories 1 – 5, and may include burning or equipment operations within Waterbody Buffer Zones, 100-year Floodplains, or Stream Environment Zones.**

Eligibility Criteria:

Activities that do not qualify under Categories 1 – 5, including Federal and Non-Federal post-fire rehabilitation projects that cannot meet the conditions of Category 3, may be eligible under this category if the enrollee adheres to the following conditions.

Conditions:

Enrollees conducting activities meeting the eligibility criteria listed above must comply with the following conditions in order to proceed under this Timber Waiver category:

- (1) Submit a complete Category 6 Application Form (Attachment K). Activities may begin once Water Board staff has notified the enrollee that their application is complete, or **30 days** following receipt of an application by Water Board staff as determined by a notice of receipt from Water Board staff, or by confirmation of delivery by the United States Postal Service or other private carrier.
- (2) An RPF, Federal Forestry Professional (as defined in Attachment A), or Natural Resource Professional has clearly indicated (within certified environmental documents completed in compliance with CEQA and/or NEPA, or within the Timber Waiver Application submitted to the Water Board) whether proposed activities could occur within or affect the following:
  - (a) Known landslides or unstable areas;
  - (b) Areas of high or extreme erosion hazard rating;
  - (c) Overflow channels, flood prone areas, and riparian areas; or
  - (d) Aquatic or wetland habitat
- (3) An RPF, Federal Forestry Professional, or Natural Resource Professional has clearly indicated (within certified CEQA and/or NEPA document(s), or within the Timber Waiver Application) whether the following conditions are present within the project area:
  - (a) Overflow channels resulting from the obstruction of stream flow or stream diversions;
  - (b) Culverts showing evidence of inadequate flow capacity; or
  - (c) Migrating channels or erodible watercourse banks.



- (4) An RPF, Federal Forestry Professional, or Natural Resource Professional has clearly indicated (within certified CEQA and/or NEPA document(s), or within the Timber Waiver Application) whether the following activities are included within the proposed project:
- (a) Skid trails on slopes greater than 50% (greater than 30% in Lake Tahoe HU);
  - (b) Construction of new watercourse crossings and/or modification of existing watercourse crossings;
  - (c) Landings and skid trails (including existing landings and skid trails and/or those to be constructed or reconstructed) proposed for use during timber harvest and vegetation management activities for which any portion of the landing or skid trail lies within a WBBZ (as defined in Attachment B);
  - (d) Equipment operations within WBBZs or Lake Tahoe HU SEZs (as defined in Attachment A) or Lake Tahoe, Truckee River, or Little Truckee River HU 100-year floodplains (as defined in Attachment A);
  - (e) Prescribed fire within WBBZs, Lake Tahoe HU SEZs, or Lake Tahoe, Truckee River, or Little Truckee River HUs 100-year floodplains; or
  - (f) New roads within the Tahoe HU.
- (5) If any of the activities or conditions listed above (in Conditions 2 through 4) exist or are proposed, the enrollee must, in the application, NEPA, and/or CEQA document, explain and justify the proposal and provide project modifications and/or mitigation measures to avoid any adverse impact(s) to water quality. If details and mitigation measures are referenced in supporting documentation (NEPA, 401 WQC, etc.), that document must be attached or provided electronically, and the specific location of the referenced details must be noted. The project must be conducted in accordance with environmental documents and the waiver application (including implementation of design features and mitigation measures).

Within the Lake Tahoe, Little Truckee River, and Truckee River HUs, Basin Plan prohibitions may apply (see Attachment N). If an exemption is required, the enrollee must request an exemption and provide additional information in the Plan or as an addendum to the Waiver application to address the required Basin Plan findings and criteria including additional project specific monitoring to evaluate effects. The enrollee may also include project trigger(s) (as defined in Attachment A) or thresholds where activities will stop if the trigger(s) are reached. The enrollee will propose the appropriate and quantifiable triggers. However, if the enrollee does not propose trigger(s), or fails to propose trigger(s) adequate to prevent discharge, Water Board staff will work with the enrollee to develop appropriate trigger(s). The Executive Officer must grant an exemption before activities subject to the prohibitions may occur.

- (6) Pursuant to Water Code section 13267, comply with the **Monitoring and Reporting Program** described in the Category 6 Application Form (Attachment K) or as directed by the Executive Officer. If a BAER report or similar is prepared, this must be submitted to Water Board staff upon request.

- (7) Pursuant to Water Code section 13267, if tractor, vehicle, or equipment operations occur in the winter period (as defined in Attachment A), the enrollee must comply with the Category 6 **Daily Winter-Period Monitoring Program** (Attachment E). Data accumulated during this monitoring must be retained by the enrollee and submitted July 15 of every year.
- (8) Over-snow watercourse crossings may be constructed as long as they are removed at the conclusion of operations or before a rain event if there is a risk of diversion or obstruction of the natural flow of water within the channel. Removal of such watercourse crossings must be done without disturbing watercourse bed or banks.
- (9) Tractor, vehicle, or equipment operations on existing roads, or off roads outside WBBZs, must be limited to:
  - (a) When soils are not saturated (as defined in Attachment A); or
  - (b) When hard-frozen soil conditions exist (as defined in Attachment A); or
  - (c) When snow depth is sufficient to not allow visible disturbance of soils.
- (10) Off existing roads within WBBZs, tractor, vehicle, or equipment operations can occur under Conditions 4(d) and 5, above, when (a), (b), or (c) below applies :
  - (a) When soils are operable (as defined in Attachment A); or
  - (b) When hard-frozen soil conditions exist; or
  - (c) When snow depth is sufficient to not allow visible disturbance of soils.
- (11) Within SEZs in the Lake Tahoe HU and 100-year floodplains of the Lake Tahoe, Truckee River, and Little Truckee River HUs, only CTL equipment with ground pressures less than or equal to 13 psi may be used without need for a Basin Plan prohibition exemption provided the conditions of Table N1 (in Attachment N) are met.
- (12) If operating within the sensitive areas described under Condition 11, above, CTL equipment must travel only over areas that have been scattered with sufficient limbs and tree tops to prevent rutting or compaction of underlying soils and minimize damage to native SEZ vegetation. The CTL Forwarder, or other low ground pressure method, shall remove this slash bed when backing out of a completed unit; sufficient slash shall be left to provide adequate ground cover (as defined in Attachment A).
- (13) In areas where sufficient slash is unavailable to adequately control erosion, the applicant shall identify and approximately map these areas, and detail equally-protective mitigation measures in the Timber Waiver application and apply for a Basin Plan prohibition exemption. In developing alternative mitigation measures to driving on a bed of slash where sufficient slash is not available, the applicant shall, at a minimum, create waterbreaks on these CTL equipment trails in accordance with the 2013 California FPRs, CCR, title 14, section 914.6. Waterbreaks or more

protective mitigation measures shall be either created by hand work or using the CTL equipment as it is backing out of the unit.

- (14) Within 100-year floodplains of Lake Tahoe, Truckee River, and Little Truckee River HUs, and Lake Tahoe HU SEZs, other equipment may be used provided the Executive Officer has granted an exemption to the Basin Plan Prohibition (see Attachment N).
- (15) All areas disturbed by timber harvest and vegetation management activities must be stabilized at the conclusion of operations or before the winter period, whichever is sooner.
- (16) Slash, chipped, and masticated material must not be discharged to waterbodies, or be deposited in locations where such material may discharge to a waterbody. Within WBBZs, compressed slash, chipped, and masticated material must not exceed an average of two inches in depth, with a maximum depth of four inches.
- (17) Facilities that cross Class I watercourses that support fish must be installed and maintained so as to allow for unrestricted passage of fish during all life stages.
- (18) Culverts at watercourse crossings in which water is flowing at the time of installation shall be installed using methods to temporarily isolate or divert stream flows from the installation area.
- (19) Permanent watercourse crossings and approaches shall be installed and maintained to accommodate 100-year flood flows and associated debris.
- (20) Prior to the commencement of timber harvest and vegetation management activities within WBBZs, trees with a DBH greater than three inches planned for removal, or trees designated for retention, must be marked (including a base mark below the cutline) or designated by written prescription and/or sample mark. However, all trees greater than 14-inch DBH planned for removal within WBBZs must be marked (including a base mark below the cutline). Marking or written prescription must be done by either a(n):
  - (a) RPF or an individual under the direct supervision of a RPF;
  - (b) Federal Forestry Professional or an individual under the direct supervision of a Federal Forestry Professional; or
  - (c) Natural Resource Professional or an individual under the direct supervision of a Natural Resource Professional.
- (21) Vegetation, other than target species (as defined in Attachment A), that is found along waterbodies, or within or bordering meadows and wet areas, must be retained and protected during timber harvest and vegetation management activities.

- (22) The following conditions apply to prescribed fire within 100-year floodplains, WBBZs, or SEZs):
- (a) Slash piles must not be located within the 100-year floodplain of any watercourse or within 25 feet of a watercourse;
  - (b) Piling and burning of slash within SEZs and WBBZs may be conducted provided the requirements of Attachment Q are adhered to. Enrollees proposing SEZ pile burning activities that don't meet the requirements in Attachment Q must apply for a Basin Plan prohibition exemption under this Timber Waiver category;
  - (c) Authorization for piling and burning slash not meeting the conditions in (a) or (b) above will be considered by the Executive Officer following Water Board staff review of burn plan(s) or supplemental information submitted with the Timber Waiver Category 6 Application that includes site specific information such as, but not limited to:
    - i. Soil type(s);
    - ii. Vegetative cover;
    - iii. Minimum distances from waterbodies;
    - iv. Topography;
    - v. Percent of area to be burned within the WBBZ and/or SEZ;
    - vi. Explanation why burn piles within the WBBZ and/or SEZ is proposed; and
    - vii. Monitoring and mitigation measures or project design features to be implemented to ensure no significant adverse environmental effects will occur.
  - (d) Broadcast burning (as defined in Attachment A) is allowed as long as the prescription does not include active ignition within SEZs or WBBZs;
  - (e) These activities will be subject to additional monitoring and reporting requirements pursuant to Water Code section 13267 (e.g., vegetative recovery, invasive species, evidence of erosion or transport of ash);
  - (f) Areas burned within WBBZs must be left in a condition such that ash, soils, and/or debris will not discharge to a waterbody; and
  - (g) If fuel breaks are constructed, effective waterbreaks must be constructed at the end of burning operations or prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.
- (23) Pursuant to Water Code section 13267, notify the Water Board in writing at least **30 days prior** to the proposed application of pesticides (as defined in Attachment A), except for application of borax and/or sporax directly to tree stumps. The written notice must include the following:
- (a) Type of pesticide;
  - (b) Method and area of application;
  - (c) Projected date of application; and
  - (d) Measures that will be employed to assure compliance with the Basin Plan.

Subsequent changes to the proposal must be submitted in writing at least 14 days before the application, unless Water Board staff agrees in writing to a shorter notice period.

- (24) Pursuant to Water Code section 13267, upon completion of activities enrollees must request termination of coverage under the Timber Waiver in accordance with Attachment M, Notice of Activity Completion Form.
- (25) The project and the enrollee remain subject to all applicable Timber Waiver criteria and conditions (including required monitoring and reporting) until a Notice is received from Water Board staff terminating coverage under the Timber Waiver. Prior to approving (or declining) termination, Water Board staff may inspect the project area.
- (26) Activities conducted under Category 6 must comply with the General Conditions of this Timber Waiver, as set forth in Section C, above, and meet the category-specific eligibility criteria listed above.

#### **E. CERTIFICATION**

I, Patty Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on April 10, 2014.



PATTY KOUYOUMDJIAN  
EXECUTIVE OFFICER

- for
- Attachments:
- A: Definitions and List of Acronyms
  - B: Waterbody Buffer Zones
  - C: Category 4 Application Form and Monitoring and Reporting Program
  - D: Category 4 Implementation Monitoring Form
  - E: Category 4 and 6 Daily Winter Period Monitoring Program
  - F: Category 5 Application Form and Monitoring and Reporting Program
  - G: Fall Implementation Monitoring Form (Category 5 & 6)
  - H: Winter Implementation Monitoring Form (Category 4, 5 & 6)
  - I: Forensic Monitoring Form (Category 5 & 6)
  - J: Effectiveness Monitoring Form (Category 5 & 6)
  - K: Category 6 Application Form and Monitoring and Reporting Program
  - L: Photo-Point Monitoring Form
  - M: Notice of Activity Completion Form

- N: Waste Discharge Prohibition and Exemption Information for the Little Truckee, Truckee River, and Lake Tahoe Hydrologic Units
- P: Summary of Monitoring and Reporting Required for Categories 4, 5, and 6
- Q: Requirements for Pile Burning within SEZs or Waterbody Buffer Zones

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## Region 9: San Diego

## **Conditional Waiver No. 5 – Discharges from Silvicultural Operations**

Conditional Waiver No. 5 is for discharges that originate from forest lands, which contain pollutants that can percolate to groundwater or runoff to surface waters. Discharges from forest lands include discharges resulting from timber operations and forest land management activities, and storm water runoff which can also transport pollutants from forest lands to surface waters and groundwater.

The following types of discharge not regulated or authorized under WDRs may be eligible for Conditional Waiver No. 5:

- Discharges of storm water runoff
- Discharges from timber harvesting projects
- Discharges from wildfire suppression and fuels management activities

These types of discharge can originate from one land owner/operator and have similar environmental settings and waiver conditions. Therefore, timber-related, or silvicultural, discharges were grouped together into one discharge classification. Silvicultural operations that comply with the waiver conditions are not expected to pose a threat to the quality of waters of the state.

Silvicultural operations can be significant sources of sediment, dissolved solids, nutrients, pesticides, hydrocarbons, and pathogens, which can adversely affect the quality of the waters of the state. Timber operations, such as timber harvesting and wildfire suppression and fuels management activities, may generate sediment and solids during harvesting and clearing activities and/or may include the composting of green wastes.

Storm water runoff can produce surface runoff that may transport pollutants from soil (e.g., sediment, dissolved solids, pesticides) and green wastes (e.g., nutrients, organics, pesticides) to surface waters. Storm water can also percolate and leach pollutants into underlying groundwater. Storm water runoff from forest lands is not subject to federal NPDES regulations.<sup>1</sup> However, storm water runoff from forest lands is subject to regulations in the state Water Code and may be regulated with WDRs, unless a waiver is issued. Silvicultural operations that properly manage their activities and wastes are not expected to pose a threat to the quality of waters of the state. Therefore, waiver conditions must require proper management and other measures to minimize or eliminate discharges of pollutants from silvicultural operations to waters of the state.

Timber operations on National Forest Service (NFS) lands in California are regulated by the U.S. Forest Service (USFS). The USFS is designated as the Water Quality Management Agency (WQMA) for silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction,

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<sup>1</sup> Code of Federal Regulations Title 40 sections 122.3(e)



and watershed management) on NFS lands.<sup>2</sup> The Regional Water Boards have agreed to waive the issuance of WDRs and the requirement to file RoWDs for USFS timber operations that may result in NPS discharges, provided that the USFS designs and implements its projects in accordance with the MMs/BMPs certified by the State Water Board and USEPA.<sup>3</sup> Silvicultural operations on NFS lands must prepare environmental and decision documents pursuant to the National Environmental Policy Act (NEPA).

Timber operations on private and state lands in California are regulated by the California Board of Forestry (BOF) and California Department of Forestry (CDF). The BOF/CDF are jointly designated as the WQMA for timber operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) on state and private forest lands.<sup>4</sup> The State Water Board conditionally certified the *Water Quality Management Plan for Timber Operations on Nonfederal Lands*. This plan has not been certified by the USEPA. Timber operations on nonfederal lands must submit a Notice of Exemption, Notice of Emergency, Timber Harvest Plan (THP), or Non-industrial Timber Management Plan (NTMP) to the CDF for approval in accordance with the State-certified plan. The CDF is supposed to circulate THPs and NTMPs to the Regional Water Boards for comment on potential water quality impacts.

The Water Quality Management Plans that are administered by the USFS and BOF/CDF for timber operations include measures for the protection of water quality. However, in the event water quality protection measures are not fully implemented, the San Diego Water Board may still regulate silvicultural discharges by issuing individual or general WDRs to ensure water quality is protected.

The San Diego Water Board determined that delegating regulation of specific types of discharge to another public agency is consistent with the Basin Plan and in the public interest. In this case, owners/operators of silvicultural operations must obtain the appropriate approvals from the USFS or BOF/CDF to perform timber harvest or wildfire suppression and fuels management projects. As long as the discharges from forest lands do not have an adverse impact on surface water or groundwater quality, the San Diego Water Board will waive the requirements to file a RoWD and WDRs for these operations.

However, waiver conditions should be developed in order for members of the public, cities, counties, local agencies and organizations, and/or the San Diego Water Board to determine if discharges from silvicultural operations pose a threat to the quality of the waters of the state. If owners/operators of silvicultural operations are not in compliance with waiver conditions, they can be issued a Notice of Violation, and required to correct deficiencies and comply with waiver conditions in order to be waived under Conditional Waiver No. 5. If the owner/operator of a silvicultural operation violates waiver

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<sup>2</sup> In accordance with the 1981 MAA between the USFS and State Water Board

<sup>3</sup> Certified MMs/BMPs can be found in the USFS's document entitled *Water Quality Management Plan for National Forest System Lands in California*.

<sup>4</sup> In accordance with the 1988 MAA between the BOF/CDF and State Water Board

conditions, the San Diego Water Board can terminate the conditional waiver for the discharge and regulate the discharge with individual WDRs and/or take other enforcement actions.

In order to be eligible for Conditional Waiver No. 5, discharges must comply with certain conditions to be protective of water quality. The waiver conditions applicable to discharges from silvicultural operations include the following:

5.I.A. General Waiver Conditions for Silvicultural Operations

5.II.A. Specific Waiver Conditions for Timber Operations on Federal Lands

5.II.B. Specific Waiver Conditions for Timber Operations on Non-Federal Lands

Discharges from silvicultural operations that comply with the general and specific waiver conditions in Conditional Waiver No. 5 are not expected to pose a threat to the quality of waters of the state.

**5.I.A. General Waiver Conditions for Silvicultural Operations**

1. Silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) must minimize or eliminate the discharge of any pollutants that could adversely affect the quality or beneficial uses of waters of the state.
2. Silvicultural operations (including timber harvesting, timber management, vegetative manipulation, fuels management, road construction, and watershed management) must comply with any federal, state, or local, state, and federal permitting, licensing, or certification requirements and applicable regulations and ordinances.
3. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring.

**5.II.A. Specific Waiver Conditions for Timber Operations on Federal Lands**

1. The State Water Board and US Environmental Protection Agency (USEPA) must continue to certify the *Water Quality Management Plan for National Forest System Lands in California*.
2. The US Forest Service (USFS) must maintain: (a) a water quality program consistent with the Basin Plan, and (b) a program to monitor the implementation and effectiveness of management measures (MMs) and/or best management practices (BMPs).
3. The USFS must provide the San Diego Water Board copies of the environmental and decision documents containing information documenting that a multi-disciplinary review of the timber harvest proposal has been conducted, and the proposed MMs/BMPs and additional control measures that will be implemented to protect water quality.
4. The USFS must submit a Notice of Intent or technical and/or monitoring program reports when directed by the San Diego Water Board.

**5.II.B. Specific Waiver Conditions for Timber Operations on Non-Federal Lands**

1. The State Water Board must continue to certify the *Water Quality Management Plan for Timber Operations on Nonfederal Lands*.
2. Timber operations within 150 feet of existing structures (i.e., “FireSafe” treatments) that are conducted pursuant to a Notice of Exemption approved by the California Department of Forestry (CDF) are not required to provide notice to the San Diego Water Board, but must keep a copy of the approved Notice of Exemption for at least one year (from the approval date) on site for inspection.
3. For timber operations approved by the CDF pursuant to a Notice of Exemption or Notice of Emergency, a copy of the notice must be provided to the San Diego Water Board.
4. For timber operations with a Timber Harvest Plan (THP) or Non-industrial Timber Management Plan (NTMP) approved by the CDF, a copy of the Plan must be provided to the San Diego Water Board.
5. Owners/operators of non-federal forest lands must submit a Notice of Intent or technical and/or monitoring program reports when directed by the San Diego Water Board.