

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 88- 13

CERTIFICATION OF A WATER QUALITY MANAGEMENT PLAN
FOR TIMBER OPERATIONS ON NONFEDERAL LANDS UNDER
SECTION 208 OF THE FEDERAL CLEAN WATER ACT

WHEREAS:

1. Section 208 of the Federal Clean Water Act requires the State to designate a planning agency to conduct areawide waste treatment management planning and to prepare an areawide waste treatment management plan for silvicultural activities in undesignated areas of the State.
2. In accordance with Part 35 of Title 40, Code of Federal Regulations (40 CFR 35), the State may certify Water Quality Management (WQM) plans (including 208 areawide waste treatment management plans) or portions thereof and may designate management agencies to implement WQM plan provisions.
3. The State Water Resources Control Board (State Board) has been designated as the planning agency for carrying out provisions of Section 208 and has been delegated the authority to designate management agencies and to certify WQM plans.
4. In accordance with 40 CFR 35, WQM plans for control of nonpoint source pollution (including that from silviculture activities) must incorporate Best Management Practices (BMPs), describe the regulatory and non-regulatory programs which will be used to implement the WQM program, any management agency(s), potential impacts of program implementation, interagency coordination and reporting procedures, and procedures for continued evaluation and revision of BMPs and the WQM plan.
5. BMPs refer to practices which have been shown to be the most effective and practicable means of adequately controlling nonpoint sources of pollution, given technological, economic, and institutional constraints.
6. Section 4514.3 of the Public Resources Code (PRC) provides that, with certain exceptions, Regional Water Quality Control Boards (Regional Boards) may no longer impose Waste Discharge Requirements after U.S. Environmental Protection

Agency (EPA) approval of BMPs, but also anticipates that a relevant water quality monitoring program is operative and that certification can be revoked under specified conditions.

7. The Board of Forestry (BOF) promulgates Forest Practice Rules (Rules) and otherwise regulates certain silvicultural activities (excluding silvicultural pesticide use) on nonfederal lands. The California Department of Forestry and Fire Protection (CDF) administers and implements these Rules through regulatory and non-regulatory programs.
8. The BOF has requested designation as a management agency and certification of its Rules and the procedures (Process) used to promulgate and implement them.
9. On June 21, 1984, the State Board adopted Resolution No. 84-45 certifying the Rules as BMPs for a four-year period on the conditions that a Management Agency Agreement (MAA) be executed and that a monitoring and assessment program be developed and implemented. The conditions were not met, so certification remained in abeyance.
10. In September 1986, the State Board signed an agreement with the BOF, CDF, the Department of Fish and Game (DFG), and the California Forest Protective Association to conduct a one-year qualitative study of the degree to which forest practices protect the quality and beneficial uses of water.
11. The study team's report, submitted on April 24, 1987, indicated that, while significant improvement has been realized in protecting water quality from effects of timber operations and the existing Process is generally capable of providing the needed protection, some significant, but technically and economically feasible, changes are needed in both Rules and Process to ensure that the best feasible protection is consistently achieved.
12. On May 26, 1987, the State Board held a hearing to receive comments on the issue of certification of the Rules and Process.
13. The State Board has thoroughly considered the comments provided during the hearing and comment period, including the recommendations of the study team's report.

14. The State Board, BOF, and CDF have developed a proposed MAA addressing the major problems identified in the team's report and in comments included in the hearing record (Exhibits C and E).
15. The MAA, together with the Rules identified in the MAA as BMPs and the Process, satisfies Federal requirements for content and the criteria for certification as a 208 WQM plan for timber operations on nonfederal lands.

THEREFORE BE IT RESOLVED:

That the State Board:

1. Rescinds State Board Resolution No. 84-45.
2. Approves the proposed MAA in order to achieve mutually acceptable improvements in the Rules and Process, and to provide for improved education and training, consultation, agency review of timber operations, conflict resolution, feedback on Rule and agency effectiveness, reporting, coordination of agency activities, and additional studies.
3. Certifies as BMPs, effective upon execution of the MAA with BOF and CDF, those Rules identified as such in the MAA.
4. Certifies, effective upon execution of the MAA with BOF and CDF, the following as a 208 WQM plan for timber operations on nonfederal lands:
 - a. The Rules certified as BMPs,
 - b. The Process, and
 - c. The MAA.
5. Designates BOF and CDF as joint management agencies for implementation of the WQM plan for timber operations on nonfederal lands effective upon execution of the MAA with those agencies.
6. Authorizes the Chairman to sign the MAA on behalf of the State Board.
7. Authorizes the Executive Director to:
 - a. Execute the approved MAA with BOF and CDF,
 - b. Submit the MAA, upon execution, to the EPA with a request for approval of the certified 208 WQM plan, and

- c. Submit progress reports together with BOF and CDF at State Board workshops every six months after the effective date of certification for at least two full years.
8. Directs Regional Boards, upon EPA approval of the 208 WQM plan, to cease issuance of Waste Discharge Requirements for timber operations on nonfederal lands, except as provided for in PRC Section 4514.3.
9. Will conduct one or more hearings to review certification of the 208 WQM plan and management agency designation under any of the following conditions:
 - a. If, for other than financial reasons, the assessments specified in the MAA cannot be implemented,
 - b. If, at any time, there is substantial evidence that BOF or CDF have failed to maintain a water quality regulatory program consistent with certification or have failed to satisfy terms of this Agreement, or
 - c. If BOF requests such a review.
10. Will evaluate the performance of BOF and CDF as management agencies in accordance with the MAA and 40 CFR 35 .

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on January 21, 1988.


Maureen Marche
Administrative Assistant to the Board