

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

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

The Regional Board, ~~in~~ on 30 January 2003 adopted Resolution No. R5-2003-0005, ~~adopted this~~ which included an Attachment A “Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities:” (*Waiver*). The Regional Board, on 28 April 2005 adopted Resolution No. R5-2005-****, which renewed the conditional waiver for discharges related to timber harvest activities for a term of 5 years, revised Attachment A, and added Attachment 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.”

Subject to the conditions set forth below, the Regional Board waives the requirements to submit reports of waste discharge and filing fees and the requirement to obtain waste discharge requirements for the categories of waste discharges specified in Part II, Category Specific Conditions ~~and Part III, Activities Existing or Completed As of 30 January 2003~~ below related to timber harvest activities provided that the following actions (1) ~~and (2)~~ for nonfederal timber lands, and (2) and (3) ~~and (4)~~ for federal timber lands managed by the US Forest Service (USFS), respectively, continue in effect.

1. 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 (CDF) as the joint management agencies for implementation of the Water Quality Management Plan for timber operations on nonfederal lands in California.
2. The State Water Board continues to certify and the US 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 USFS as the management agency.
3. The USFS 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.

I. GENERAL WAIVER CONDITIONS

A. Definitions

1. “Timber Harvest 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, ~~including Christmas trees,~~ 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. ~~Also included in this definition are silvicultural activities performed by the USFS using its own crews and/or service contracts, without regard to whether timber is to be sold for commercial purposes.~~ “Commercial” ~~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 harvest activities for nonfederal lands, and the USFS, private timber operators operating on federal lands, and anyone working on behalf of the USFS or a timber operator in the conduct of timber harvest activities on federal lands.
3. “Plan” means any Timber Harvest Plan (THP), Nonindustrial Timber Management Plan (NTMP), or other discretionary permit issued by CDF to harvest timber, including all amendments thereto that propose a change in timber harvest 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 harvest activities will be conducted, such as a change in timber operator, a time extension from CDF, 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 Regional Board and approved by the State Water Board, and plans or policies adopted by the State Water Board that apply to the timber harvest activities. (Excerpts of the currently applicable requirements are

- included in Attachment 1 to this Waiver for the dischargers' convenience; Attachment 1 may be revised from time to time.)
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, ~~instream~~ implementation, effectiveness, forensic, water quality compliance), assessment and trend monitoring, and Waiver compliance monitoring undertaken in connection with timber harvest activities; ~~monitoring to identify short and long term trends in water quality, active inspections of timber operations, hillslope implementation and effectiveness monitoring, and project completion inspections for timber operations.~~
 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 (as identified in Attachment 1 for the dischargers' convenience), and 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; and
2. The discharger shall conduct timber harvest activities in accordance with the approved Plan or CDF-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 harvest activities on federal lands managed by the USFS; and
3. The discharger shall not create a condition of pollution, contamination, or nuisance, as defined by CWC Section 13050; and
4. The discharger shall not discharge any waste not specifically regulated by the waivers described herein and shall not cause alteration in stream temperature which exceeds Basin 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 Regional Board staff reasonable access onto the affected property whenever requested by Regional Board staff for the purpose of performing inspections and conducting monitoring, including sample

- collection, measuring, and photographing/taping to determine compliance with waiver conditions; and
6. Any person seeking coverage under this Waiver shall file the applicable eligibility document(s) as described herein with the Regional Board; and
 7. Unless other timeframes are specified, discharges associated with timber harvest activities and pesticide applications that comply with the eligibility criteria, conditions, and procedures for a waiver may commence upon receipt by the Regional Board of the applicable documents as described in Part II – Category Specific Conditions, ~~and Part III – Activities Existing or Completed As of 30 January 2003~~ including acknowledgement of the Monitoring Conditions described in Attachment B.
 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 HARVEST ACTIVITIES ON NONFEDERAL LANDS (including certain activities approved by CDF under exemption or emergency notices, timber harvesting plans, other plans, or amendments).

1. **Eligibility Criteria:**

- a. Timber harvest 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 CDF under 14 California Code of Regulations (CCR) Section 1038(c). ~~No notice to the Regional Board is required for timber harvest activities that meet this criterion.~~
- ~~a-b.~~ Timber harvest activities, other than “FireSafe” treatments ~~as~~ the notices of exemption or emergency specified in (II)(A)(1)(a) above, that comply with the following criteria ~~as clearly indicated in the Plan or Notice of Exemption or Notice of Emergency accepted by CDF:~~
 1. No timber harvest 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 harvest activities within any Special Treatment Area “type a” or “type c²,” 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 harvest activities within the standard width of a Watercourse and Lake Protection Zone or ~~equipment limitation zone~~ 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 harvest 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 harvest activities within the buffer zone of a sensitive species, as defined in 14 CCR 895.1.
10. No timber harvest 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 harvest 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 harvest activities involving mechanical site preparation, as defined in 14 CCR 895.1. (Timberland Conversions excepted)
14. No timber harvest activities involving prescribed burning. (Timberland Conversions excepted)
15. No timber harvest 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 harvest 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 Regional Board receives: (1) a copy of a Plan approved by CDF, or an exemption or emergency notice accepted by CDF, that includes all of the above eligibility criteria, and (2) a Certification Notice, signed by the landowner, certifying that the timber harvest activities will comply with the eligibility criteria and conditions for Waiver Category 1. ~~This notification is not required for those projects~~ I, received within 15 days from notice acceptance by CDF 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 for "FireSafe" treatments, as contained ~~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 CDF Forest Practice Rules and the criteria specified in Part II A.1.b. above.*

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

1. **Eligibility Criteria**: Timber harvest activities that comply with the following criteria as identified in the Notice of Exemption or Notice of Emergency accepted by CDF: *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 harvest 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 harvest 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 harvest 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 Regional Board receives: (1) a copy of a Notice of Exemption or Notice of Emergency accepted by CDF 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 harvest activities will comply with all conditions applicable to Waiver Category ~~2-2~~, *received within 15 days of notice acceptance by CDF and prior to the start of operations.*
- b. ~~a-~~The discharger shall comply with the General Conditions described in Part I.B., above.
- c. ~~b-~~The discharger shall notify the Regional 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. ~~e-~~The discharger shall comply with ~~a monitoring program, pursuant to all conditions specified in Attachment B, “Monitoring Conditions.”~~ *The discharger shall comply with all applicable requirements of the Implementation.*

Effectiveness and Forensic General Monitoring and Reporting Program No. R5-2005-****. 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. CWC Section 13267, when directed in writing by the Executive Officer.

- ~~d. Within 30 days after completion of timber harvest activities under a notice of exemption or emergency, the discharger shall submit to the Regional Board a final certification, signed by the landowner, certifying that: (1) the timber harvesting activities were conducted in conformance with the accepted CDF exemption or emergency notice, including information required in Part II.B.1.a through d., above, and all other applicable provisions of this waiver, and (2) discharges resulting from timber harvesting activities and pesticide applications were in compliance or are expected to comply with all requirements of applicable water quality control plans.~~
- 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 HARVEST ACTIVITIES ON NONFEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CDF AND FOR WHICH REGIONAL BOARD STAFF HAS FULLY PARTICIPATED IN THE INTERDISCIPLINARY REVIEW TEAM PROCESS (including timber harvesting plans, nonindustrial timber management plans, other plans, and amendments).

1. **Eligibility Criteria:**

- a. Regional Board staff has participated in CDF's interdisciplinary Review Team process, including an on-site pre-harvest inspection (PHI), except that Regional Board staff attendance at a PHI for an amendment is optional and is required only upon written notification by Regional 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 CDF by Regional Board staff, or Regional Board staff accepts, in writing, those management practices and/or water quality protective measures proposed by either CDF 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 Regional

Board staff, or as subsequently agreed to in writing by the ~~Regional Board's~~ Executive Officer following dispute resolution.

2. **Conditions:**

- a. The Regional Board receives: (1) a copy of a Plan approved by CDF that incorporates all identified additional management practices, and/or water quality protective measures resulting from Regional Board staff participation in CDF'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 ~~3.3~~, received at least 30 days prior to the start of timber operations.
- b. ~~a-~~For an approved NTMP, the discharger shall submit each Notice of Timber Operations to the Regional Board no less than 30 days prior to commencement of timber harvest activities.
- c. ~~b-~~The discharger shall comply with the General Conditions described in Part I.B., above.
- d. ~~e-~~The discharger shall notify the Regional 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.

~~The discharger shall comply with a monitoring program, pursuant to CWC Section 13267, when directed in writing by the Executive Officer.~~ *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, Effectiveness and Forensic General Monitoring and Reporting Program No. R5-2005-****. 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.*

- ~~d.~~ The Regional Board receives, forthwith, copies of annual or completion reports filed with CDF and a final certification signed by the landowner, certifying that: (1) the timber harvesting activities were conducted in conformance with the approved Plan or accepted notice of timber operations and complied with all applicable provisions of this waiver and (2) discharges resulting from the timber harvesting activities and pesticide applications were in compliance or are expected to comply with all requirements of applicable water quality control plans.

f. 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.

D. CATEGORY 4: TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CDF 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 timberland 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 CDF 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 harvest 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 harvest 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 Regional 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.~~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 ~~watercourse~~watercourses and lakes or that is found within or bordering meadows and wet areas will be retained and protected during timber harvest 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 Regional Board receives: (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 ~~4-4~~, received at least 30 days prior to the start of timber operations.

- ~~b. a-~~ For an approved NTMP, each Notice of Timber Operations shall be submitted to the Regional Board no less than 30 days prior to commencement of timber harvest activities.
- c. The discharger shall comply with the General Conditions described in Part I.B., above.
- d. The discharger shall notify the Regional 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 a monitoring program, pursuant to all conditions specified in Attachment B, "Monitoring Conditions." The discharger shall comply with all applicable requirements of the Implementation, Effectiveness and Forensic General Monitoring and Reporting Program No. R5-2005-****. 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.

~~CWC Section 13267, when directed in writing by the Executive Officer.~~ f. 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.

- ~~f. The Regional Board receives, forthwith, copies of annual or completion reports filed with CDF and a final certification signed by the landowner, certifying that: (1) the timber harvesting activities were conducted in conformance with the approved plan or accepted notice of timber operations [including information required in Part II.D.1.a through c., above] and with all other applicable provisions of this waiver, and (2) discharges resulting from the timber harvesting activities and pesticide applications were in compliance or are expected to comply with all requirements of applicable water quality control plans.~~

E. CATEGORY 5: TIMBER HARVEST ACTIVITIES ON FEDERAL LANDS MANAGED BY THE USFS (including timber harvest sales, fuels reduction projects, fire salvage harvest, pesticide applications, forest stand improvements and hazard tree removal projects)

1. Eligibility Criteria:

- a. The USFS has conducted a multi-disciplinary review of the timber harvest 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 USFS 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 USFS has allowed the public and other interested parties reasonable opportunity to comment on and/or challenge individual timber harvest proposals.

2. **Conditions:**

- a. The USFS shall submit to the Regional 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 Regional Board staff.
- b. ~~The USFS shall submit and comply with a monitoring program prior to commencement of timber operations~~ comply with all conditions specified in Attachment B, "Monitoring Conditions." The USFS shall also comply with all applicable requirements of Implementation, Effectiveness and Forensic General Monitoring and Reporting Program No. R5-2005-****. The USFS 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 USFS shall conduct effectiveness and forensic monitoring when: (1) the discharger's cumulative watershed effects analysis indicates that the project, combined with other USFS 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.); or (2) the cumulative watershed effects analysis indicates that the project may increase risk values, as determined by various models (Equivalent Roaded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.), in any watershed or subwatershed that already exceeds a threshold of concern prior to project implementation. The Executive Officer retains the discretion to waive this requirement, or to impose monitoring requirements in other situations, as appropriate. The USFS shall comply with the General Conditions described in Part I.B., above.
- b. ~~The USFS shall comply with the General Conditions described in Part I.B., above.~~
- c. ~~The USFS shall submit to the Regional Board, forthwith upon~~ Upon completion of timber harvest activities, ~~a final certification signed by the Forest Supervisor or District Ranger, certifying that: (1) the timber harvesting activities were~~

~~conducted in conformance with all applicable provisions of this waiver, including information required in Part II.E.1.a and b., above, and (2) discharges resulting from the timber harvesting activities were in compliance or are expected to comply with all requirements of applicable water quality control plans. and cessation of waste discharges (including pesticides), the USFS shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.~~

III. ACTIVITIES EXISTING OR COMPLETED AS OF 30 JANUARY 2003

Timber harvest activities that were authorized to proceed by CDF or the US Forest Service prior to the adoption of this Waiver can be covered under this waiver if they meet one or more of the eligibility criteria, submit the specified eligibility document(s) to the Regional Board, and comply with the applicable conditions, as specified below:

1. Eligibility Criteria:

- ~~a. Timber harvest activities on nonfederal lands that meet the eligibility criteria at Part II.A.1.a. for a Category 1 waiver (i.e., “FireSafe” treatments around existing structures). No notice to the Regional Board is required.~~
- ~~b. Timber harvest activities on nonfederal lands that meet the eligibility criteria at Part II.A.1.b. for a Category 1 waiver (i.e., minor timber harvest activities other than “FireSafe” treatments approved by CDF under 14 CCR 1038(e)), upon receipt by the Regional Board of a Certification Notice, signed by the landowner, listing the Plan (or notice) number and all of the eligibility criteria at Part II.A.1.b., and certifying that the timber harvest activities meet all of those eligibility criteria, and that the discharger believes that the activities are appropriately covered under Waiver Category 1.~~
- ~~c. Timber harvest activities on nonfederal lands accepted by CDF under a Notice of Exemption or Notice of Emergency that do not qualify for a waiver under subsection a. or b., above, upon receipt by the Regional Board of: (1) a copy of the CDF-accepted Notice of Exemption or Notice of Emergency, and (2) a Certification Notice, signed by the landowner, listing the CDF notice number and any additional practices needed to meet the eligibility criteria at Part II.B1.c. and certifying that those additional practices will be followed during the implementation of said project, and that the discharger believes that the activities are appropriately covered under Waiver Category 2.~~
- ~~d. Timber harvest activities on nonfederal lands approved by CDF prior to the effective date of this Waiver, but which otherwise meet the eligibility criteria in Part II.C.1.a through d. for a waiver under Category 3, upon receipt by the Regional Board of a Certification Notice, signed by the landowner, listing the Plan number and certifying that the discharger has incorporated all management practices and/or water quality protective measures identified or approved by Regional Board staff during its participation in CDF’s interdisciplinary Review~~

~~Team process and believes that the activities are appropriately covered under Waiver Category 3.~~

- ~~e. Timber harvest activities on nonfederal lands that were approved by CDF prior to the effective date of this Waiver and that are supplemented as described in this paragraph, upon receipt by the Regional Board of a Certification Notice, signed by the landowner, that lists the Plan number, details any additional management practices needed to meet the applicable eligibility criteria at Part II.D.1.c.2. and certifying that those additional practices will be followed during the implementation of said project, and that the discharger believes that the activities are appropriately covered under Waiver Category 4.~~
- ~~e. Timber harvest activities on National Forest System lands for which a NEPA decision document was executed by the USFS prior to the effective date of this Waiver, provided that: (1) the final environmental and decision documents prepared pursuant to NEPA contain information documenting compliance with the eligibility criteria at Part II.E.1.a and b, above, and (2) the USFS submits to the Regional Board a signed certification, signed by the Forest Supervisor or District Ranger, listing the project name and location, and certifying that the USFS believes the activities are appropriately covered under Waiver Category 5.~~

~~2. **Conditions:**~~

~~Conditions (a) through (d), below, apply to timber harvest activities on both nonfederal and federal lands. Conditions (e) through (g) apply to timber harvest activities on nonfederal lands only. Condition (h) applies to timber harvest activities on federal lands:~~

- ~~a. The discharger or USFS shall submit to the Regional Board the eligibility documents described in the preceding section.~~
- ~~b. For those categories where application of pesticides is allowed, the discharger shall notify the Regional 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 applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.~~
- ~~c. The discharger or USFS shall comply with a monitoring program, pursuant to CWC Section 13267, when directed in writing by the Executive Officer.~~
- ~~d. The discharger or USFS shall comply with the General Conditions described in Part I.B., above.~~

- ~~e. For an approved NTMP, each future Notice of Timber Operations shall be submitted to the Regional Board no less than 30 days prior to commencement of timber harvest activities.~~
- ~~f. For an approved Program Timberland Environmental Impact Report (PTEIR), the proponent of each future Program Timber Harvesting Plan (PTHP) would need to seek coverage under Section II, Waiver Category 1, 3, or 4 for each new PTHP.~~
- ~~g. The discharger (nonfederal lands) shall submit, forthwith, to the Regional Board, copies of annual or completion reports filed with CDF and a final certification signed by the landowner, certifying that: (1) the timber harvesting activities were conducted in conformance with the approved Plan or notice of timber operations and with the applicable provisions of this waiver and, (2) discharges resulting from the timber harvesting activities and pesticide applications were in compliance with or are expected to comply with requirements of applicable water quality control plans.~~
- ~~h. The USFS shall submit to the Regional Board, forthwith upon completion of timber harvest activities, a final certification signed by the Forest Supervisor or District Ranger, certifying that: (1) the timber harvesting activities were conducted in conformance with all applicable provisions of this waiver and, (2) discharges resulting from the timber harvesting activities were in compliance or are expected to comply with all requirements of applicable water quality control plans.~~

III. TERMINATION OF COVERAGE

1. The discharger may terminate coverage under this Waiver for a completed timber harvest activity by submitting to the Regional 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 harvest 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 USFS representative shall certify that: (1) the timber harvesting activities were conducted in conformance with the approved plan, accepted notice or USFS 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 harvest 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 harvest activities, including pesticides, have ceased.

IV. TERMINATION OF WAIVERS

1. The Executive Officer shall terminate the applicability of a waiver to specific timber harvest activities if the Executive Officer makes any of the following determinations:
 - a. The proposed timber harvest activities do not comply with the eligibility criteria for the waiver.
 - b. The timber harvest activities are not in compliance with the applicable conditions of the waiver.
 - c. The proposed timber harvest activities are reasonably likely to ~~result in~~cause or contribute to any violation of ~~any requirement~~ of an applicable water quality control plan or policy. In making this determination, the Executive Officer shall consider the recommendations of Regional Board staff that participated in the review of the proposed timber harvest activities, if any.
 - d. A timber harvest 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 harvest activities that may result in 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: pursuant to CWC section 13260. 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 Regional Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with CWC Section 13264(a).