California Regional Water Quality Control Board
North Coast Region

Order No. R1-2013-0004

Waiver of Waste Discharge Requirements
and
General Water Quality Certification
for
County Road Management and Activities
Conducted Under the Five Counties Salmonid Conservation Program
In the Counties of
Del Norte, Humboldt, Mendocino, Siskiyou, and Trinity
In the
North Coast Region

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

1. The counties of Del Norte, Humboldt, Mendocino, Siskiyou, and Trinity (5C Counties) encompass 17,555 square miles, containing approximately 4,790 miles of county roads and 16,600 culverts (including ditch relief culverts). Roads are a source of existing and potential sediment delivery from: 1) increased surface erosion and fine sediment production and delivery; and 2) an increased potential for stream diversions (stream channel capture), rill and gully erosion, and shallow-seated landslides with corresponding increases in sediment production and delivery. Sediment and settleable matter may affect stream channel stability and habitat, resulting in a potential impact to cold water fish habitat (COLD) beneficial uses. Estimated total road miles by county are as follows:

Del Norte	300 miles
Humboldt	1207 miles
Mendocino[1]	1018 miles
Siskiyou[2]	1364 miles
Trinity	700 miles

2. The 5C Counties are responsible for conducting routine and emergency repair and maintenance of county roads and related facilities, including bridges and road maintenance yards, and snow and ice removal. These activities have the potential to discharge wastes that affect waters of the state. In addition, 5C Counties are responsible for discharges of waste from legacy sediment sites associated with their road networks. Legacy sediment sites are existing sites that are 1) actively discharging or have the potential to discharge sediment in violation of water quality requirements; 2) are caused or affected by human activity; and 3) may feasibly and

[1] A small portion of Mendocino County falls within the Russian River Watershed, outside the 5C Program area, which is technically part of a similar program known as the Fishnet 4C. However, to ensure consistency throughout the county, all of Mendocino County participates in the 5C program training and implements the 5C Program.

[2] A portion of Siskiyou County falls within the Sacramento River Watershed, outside the 5C Program area. Not all of the 5C Program activities carried out in the coastal watersheds are done within the Sacramento River areas.

reasonably respond to erosion control/management measures. The 5 Counties Salmonid Conservation Program (5C Program) provides an efficient and organized structure for preventing and mitigating water quality impacts from county road maintenance activities, and also implements important restoration projects in a large portion of the North Coast Region. Activities that are covered under this Order are:

a. Road maintenance, including grading practices (shoulder blading and rebuilding, erosion repair, ditch shaping and cleaning, channel maintenance), road surfacing and dust abatement (road surface repair, dust abatement, water drafting, low water crossing maintenance), vegetation management (mowing and cutting of vegetation, invasive weed abatement[3], tree removal), and winterizing roads.

b. Culvert maintenance, including culvert cleaning, culvert improvement and repair, culvert sizing, culvert replacement, ditch relief culvert location selection and installation, and temporary stream diversions during in-stream projects.

c. Soil disposal, including site selection for spoil disposal, disposal site maintenance, disposal site closure, and stockpile maintenance.

d. Maintenance yard management, including facility housekeeping practices, building and grounds maintenance, vehicle and equipment maintenance (vehicle fueling, vehicle and equipment maintenance and repair, pressure washing of vehicles and equipment, and care and feeding of oil/water separators), and material use and storage (waste minimization, handling and disposal; used oil recycling; storage of hazardous materials; outdoor storage of raw materials; outdoor loading/unloading of materials; above ground tank leak and spill control; safer alternative products).

e. Bridge maintenance, including bridge vegetation management, and bridge drift removal (bridge painting and cleaning are not included in this activity[4]).

f. Emergency maintenance, including slide and settlement repair, and accident cleanup.[5]

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[3] At the time of the writing of this Order, the 5C Manual states that none of the county road departments in the region apply herbicide and/or pesticide treatments as part of their vegetation management activities. An Invasive Weed Management section will be added to the manual at a later date to address noxious weed abatement. Accordingly, this Order does not authorize discharges from pesticide or herbicide application, but may be amended at a future date as appropriate.

[4] See Order No. R1-2003-0041 (General Waste Discharge Requirements for Discharges Associated with Transportation Structure Repainting Activities).

[5] Dischargers must also comply with the requirements of the California Emergency Management Agency Hazardous Materials Spill reporting process. Additional clean up requirements may be required depending on the type and extent of the accident. Any significant release or threatened release of a hazardous material requires immediate reporting by the responsible person to the Cal EMA State Warning Center (800) 852-7550 and the Certified Unified Program Agency (CUPA) or 911. The CUPA may designate a call to 911 as meeting the requirement to call them. Contact information for a jurisdiction's CUPA can be found at http://cersapps.calepa.ca.gov/Public/Directory/ or http://cersapps.calepa.ca.gov/Public/UPAListing.
Notifying the State Warning Center (800) 852-7550 and the CUPA or 911 constitutes compliance with the requirements of section 11004 of title 42 of the United States Code regarding verbal notification of the SERC and LEPC (California Code of Regulations, Title 19 Section 2703 (e)). Additional information regarding spill reporting may be found at http://www.calema.ca.gov/HazardousMaterials/Pages/Spill-Release-Reporting.aspx

g. Snow and ice removal, including sanding, de-icing, and anti-icing chemicals.

h. Treatment of legacy sites, including upgrading of stream crossings, road outsloping and rolling dip installation where safe and suitable, installing ditch relief culverts and overside drains, removing berms, armoring unstable areas, reshaping cutbanks, and rocking native-surfaced roads.

Most of the potential impacts from the above listed activities are associated with erosion and sediment delivery and/or changes to riparian systems that may reduce shade and affect water temperatures, and chemical discharges from maintenance yards and snow and ice removal. Activities and associated discharges authorized by this Order do not include those that take place within the channel and/or on the banks of a watercourse containing fish and/or that supplies water for a domestic water source.

Water Quality Regulation

3. The *Water Quality Control Plan for the North Coast Region* (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives to protect waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. Economic considerations were evaluated as required by law during the development of these objectives. Compliance with the conditions, prohibitions, and provisions contained in this Order will implement these previously developed water quality objectives and protect beneficial uses.

4. The State Water Board 2004 *Policy for the Implementation and Enforcement of the* Nonpoint *Source Pollution Control Program* (NPS Policy) requires that nonpoint source discharges of waste be regulated by waste discharge requirements (WDR), waiver of waste discharge requirements, or prohibition to ensure compliance with regional water board water quality control plans (Basin Plan).

5. Water Code 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 water board a Report of Waste Discharge (ROWD) containing such information and data as may be required by the Regional Water Board (RWB). The Regional Water Board may waive the requirements of Water Code section 13260 for specific types of discharge if the waiver is consistent with the Basin Plan and in the public interest. Any waiver is conditional and may be terminated at any time. A waiver should include monitoring requirements to verify the adequacy and effectiveness of the waiver's conditions. This Order conditionally waives the requirement to file a ROWD for activities and associated discharges described in finding 2.

6. Projects described in finding 2 that involve construction and other work in waters of the United States may require a federal permit pursuant to section 404 of the Clean Water Act. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit to provide water quality certification from the state. State water quality certification conditions shall become conditions of any federal license or permit for the project. This Order includes a Section 401 General Water Quality Certification for activities and associated discharges described in finding 2.

7. The federal Clean Water Act section 303(d) requires the states to determine waterbody compliance with water quality objectives and to develop a list of impaired waterbodies. Federal regulations require that a Total Maximum Daily Load analysis (TMDL) be conducted for 303(d) listed water bodies for each pollutant of concern. The US Environmental Protection Agency (EPA) has established TMDLs for 25 impaired stream segments in the North Coast Region. The Regional Water Board has adopted five additional TMDLs for impaired stream segments in the North Coast Region with accompanying implementation plans.

8. The majority of the North Coast TMDLs developed to date address sediment and temperature impairments, most with common approaches. The TMDLs typically list COLD as an important beneficial use. While the actual load allocations and targets may vary from one TMDL to another, all address the need to reduce and prevent excess sediment inputs and decrease water temperature by protecting and restoring natural shade. In many of the TMDLs, roads are identified as significant contributors to excessive sediment loading, which can, in turn, contribute to elevated water temperatures, and result in subsequent listings of watercourses for both categories of impairment.

9. If certain findings can be made, the State Water Board's Impaired Waters Policy (Water Quality Control Policy for Addressing Impaired Waters: Regulatory Structure and Options, Resolution No. 2005-0050) provides that a TMDL may be adopted with a resolution or order that certifies that a regulatory or non-regulatory program is being implemented by another entity, and the program will correct the impairment. This Order includes the requisite findings below and certifies the 5C Program as an appropriate TMDL implementation mechanism.

10. The 5C Program provides an efficient and organized structure for addressing water quality impacts from county road maintenance activities, and implementing important restoration projects in a large portion of the North Coast Region. When implemented, the 5C Program meets the water quality protection needs of the Regional Water Board while consolidating efforts of various local, state, and federal agencies to conserve resources and avoid duplicative implementation of regulatory requirements.

11. Implementation of the 5C Program will address sediment and temperature impairments by requiring: 1) the application of Best Management Practices (BMPs) on county roads and at corporation yards to avoid excess sediment discharges; 2) the protection and maintenance of riparian conditions and shade, within the County road right of way and property; 3) inventories, prioritization and remediation of sediment delivery sites; 4) implementation and effectiveness monitoring of BMPs and documentation of the monitoring results; and 5) on-going training of road district supervisors and road crews in BMPs. For activities identified in finding 2, it is anticipated that compliance with the conditions contained in this Order will constitute TMDL compliance with all sediment and temperature TMDLs, including EPA-established TMDLs, in the 5C Counties' areas of the North Coast Region, subject to periodic review, monitoring and reassessment.

Framework of the 5C Program

12. The 5C Counties entered into a cooperative effort beginning in 1997 to address the listing of coho salmon as a threatened species under the federal Endangered Species Act (ESA). The effort resulted in the development of the 5C Program, which is committed to a long-term, systematic, prioritization-based restoration to improve water quality and salmonid habitat. An important element of the 5C Program is long term reduction of sediment discharges from county roads to anadromous streams. The *Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds* (5C Roads Manual) was developed in 2002 as an implementation tool to achieve salmonid habitat restoration goals through the 5C Program. Goals of the 5C Roads Manual are to prevent or minimize delivery of sediment and chemicals to streams, protect aquatic and riparian habitat, and restore hydrologic connectivity where feasible. One of the anticipated benefits of the Manual was the facilitation of streamlined permitting processes with state and federal agencies.

13. The 5C Program contains five major components that are important for meeting water quality needs: BMP implementation; riparian management; treatment of legacy sediment sites; monitoring; and training.

14. First, the 5C Roads Manual provides best management practices (BMPs) for the repair and maintenance of county roads and related facilities, such as bridges and county road maintenance yards, including the replacement of existing structures with different types of structures. Road maintenance includes actions taken to prevent erosion and/or the deterioration of a roadway, including the associated cutbank, road surface, fillslope, and all drainage structures. The 5C Roads Manual includes management measures for activities to protect the traveling public, such as snow and ice removal. The 5C Roads Manual describes categories of maintenance activities and recommended BMPs, including management of temporary and permanent soil

stockpile locations, and retention of riparian vegetation near watercourses, aimed at reducing environmental degradation from sediment delivery to streams, and minimizing the potential for other adverse effects.

15. Second, the 5C Roads Manual includes measures for minimizing disturbance of riparian areas and maintaining shade. Shade trees along streams and rivers are to be maintained unless it they are determined to be a hazard. Any removal of trees providing shade or bank stabilization requires coordination with multiple agencies.

16. Third, the 5C Program includes a road inventory method known as the Direct Inventory of Roads and Treatments (DIRT). The DIRT provides methodology to assess road related erosion sources from existing roads and drainage structures, identify road stream crossings that are barriers to fish passage, locate suitable soil spoils sites, recommend treatments of identified sediment sites, and begin to prioritize the inventoried sites by treatment immediacy and other criteria, including the erosion potential and total sediment delivery volume. Additional factors include a cost-benefit analysis of prescribed treatments, biological considerations including watershed priority and anticipated benefits to salmonid populations; and management considerations such as capital improvement schedules and funding availability. The implementation approach to DIRT recommended treatments is developed by each individual County depending on their economic and other available resources. Individual 5C Counties and 5C Program staff may modify initial DIRT prioritizations when developing implementation projects.

17. Del Norte, Mendocino and Trinity Counties have completed the DIRT inventories on all of their roads. DIRT inventories continue to be performed in Humboldt and Siskiyou counties to identify existing sources of road-related erosion and prioritize treatments. A total of 2,455 miles of county roads have been inventoried, largely with grant assistance. The DIRT inventories within the 5C Counties will continue until all of the counties' roads are completed.

18. Finally, training and monitoring are also important components for meeting water quality needs and are included in the 5C Program. The 5C Roads Manual includes a training program for road crews, supervisors, engineers, and managers, and a monitoring program to evaluate and document the effectiveness of the BMPs in protecting, maintaining, and enhancing water quality and stream habitat, especially for listed species of salmonids. The manual describes selective self-monitoring of the implementation and effectiveness of BMPs with suggested methods for carrying out both types of monitoring. The monitoring provisions of the 5C Program also specify the development of an annual report by January of each year to summarize each county's effectiveness monitoring results. In addition, the 5C Program incorporates adaptive management by evaluating the manual's BMPs every five years and updating as needed, based upon the monitoring results.

The Waiver Order

19. The Regional Water Board has a statutory obligation to prescribe waste discharge requirements except where the Regional Water Board finds that a waiver of waste discharge requirements for a specific type of discharge is in the public interest pursuant to Water Code section 13269.

20. This Order contains conditions that rely on the implementation of the 5C Program. The primary substantive components include: 1) prevention and minimization of water quality impacts from 5C Road Program activities through implementation of the BMPs contained in the 5C Roads Manual; 2) inventory, prioritization, and scheduling for remediation of sediment delivery sites using the DIRT methodology; and 3) monitoring and reporting requirements, including adaptive management to ensure that lessons learned are translated into modified practices.

21. As authorized by Water Code section 13269, this Order conditionally waives the requirement to file a ROWD and obtain WDRs for activities and associated discharges identified in findings 2 for those 5C Counties who implement the 5C Program and comply will all conditions in this order, including the monitoring and reporting program.

22. It is appropriate to regulate discharges from nonpoint source activities as described in finding 2 under a general waiver order rather than individual discharge requirements because this Order addresses the same or similar discharges of waste from the same or similar operations and proposes the same or similar treatment methods and management practices. By regulating these discharges and activities under a general waiver order, it simplifies and streamlines the regulatory process and allows Regional Water Board staff to focus its limited resources on working with the 5C Counties within the North Coast Region to protect water quality. It is not an efficient use of Regional Water Board, or 5C Counties, staff time to process WDRs for each and every county activity. An effective waiver program can be established that can rely, in part, on the 5C Program and individual counties' administration of its existing water quality protection programs. The Regional Water Board will reevaluate the Order no later than five years from adoption, when it must be renewed, and earlier if appropriate. At that time, with the appropriate process and noticing, the Regional Water Board may make any necessary adjustments.

General Water Quality Certification

23. Projects described in finding 2 that involve construction and other work in waters of the United States will likely require a permit from the Army Corp of Engineers pursuant to section 404 of the Clean Water Act. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act, and other appropriate requirements of state law (33 U.S.C. § 1313). The Regional Water Board Executive Officer may issue a decision on a water quality certification application. (Cal. Code Regs., tit. 23, § 3838, subd. (b).) State water quality certification conditions shall become conditions of any federal license or permit for the project.

24. The Regional Water Board may issue a general water quality certification for a class or classes of activities that are the same or similar, or involve the same or similar types of discharges and possible adverse impacts to water quality if it determines that these activities are more appropriately regulated under a general certification rather than individual certifications. (Cal. Code Regs., tit. 23, §3861.) General certifications apply for a fixed term not to exceed five years, must be conditioned to require subsequent notice to the Regional Water Board at least 30 days prior to commencement of the activity, and include appropriate monitoring and reporting requirements. A fee is also required pursuant to California Code of Regulations, title 23, section 3833, sub.(b)(3).

25. The General Water Quality Certification contained in this order shall not apply to activities that will 1) take place within the channels and/or on the banks of a watercourse containing fish and/or that supplies water for a domestic water source; 2) result in significant unavoidable environmental impacts including permanent impacts to wetlands, and/or violation of water quality standards; 3) result in the direct or indirect take of any listed species; or 4) expose people and/or structures to potential adverse effects from flooding, landslides or soil erosion. (Cal. Code Regs., tit. 23, §3861, subd. (d).)

26. This Order includes a General Water Quality Certification for activities covered under this Order that may require a federal permit. General certification conditions in addition to waiver conditions are provided for in a separate section of this Order. A 5C County seeking Clean Water Act section 401 certification for a project shall notify the Regional Water Board at least 30 days prior to commencement of the activity and submit information regarding the construction schedule and other relevant information (form provided in Appendix A), and appropriate fee. Unless the Regional Water Board determines that the project or activity does not meet the specified criteria for coverage under the General Water Quality Certification, this Order will

provide Clean Water Act section 401 certification for the federal permit required for that project. A list of projects covered by this General Water Quality Certification will be posted on the Regional Water Board's website and shall serve as notice to the Army Corp of Engineers of project coverage. Projects that do not meet the criteria for coverage under the general certification must apply for individual certification.

Monitoring

27. Effective January 1, 2004, Water Code section 13269 requires that waivers include the performance of individual, group, or watershed-based monitoring. Pursuant to Water Code section 13267, a Monitoring and Reporting Program is attached which includes: 1) an annual reporting requirement, 2) BMP implementation and effectiveness monitoring, and 3) a feedback mechanism to ensure that lessons learned are included in future trainings and 5C Roads Manual revisions.

28. The Monitoring and Reporting Program for this Order is issued pursuant to Water Code section 13267 and may be modified as needed by the Executive Officer of the Regional Water Board.

Procedure

29. To be covered under this Order, a 5C County must submit a written Notice of Intent (NOI) to the Regional Water Board. A NOI template may be found in Attachment A. The NOI must certify the county's intent to comply with the 5C Program and the conditions of this Order. The NOI shall be signed by the Chair of the Board of Supervisors for the enrolling 5C County, the Director of Public Works, or other designated authorized representative. If an individual county chooses not to be covered under this Order, that county will be subject to WDRs and associated fees.

30. Procedure for water quality certification of projects is outlined in finding 23-26.

31. Table 4-10 of the Scott River Sediment and Temperature TMDL Implementation Plan contained in the Basin Plan requires the development of a Memorandum of Understanding (MOU) with Siskiyou County to address county roads. Enrollment in this Order will serve to implement the TMDL requirements for Siskiyou County in lieu of an MOU.

TMDL Implementation Certification

32. The Impaired Waters Policy allows for certification of regulatory or non-regulatory programs being implemented by another entity for TMDL implementation if the program will correct the impairment. It specifies that the Regional Board should take into account another entity that is constructively involved in efforts to address water quality impairments, and, where appropriate, take advantage of third-party efforts.

Not only does this avoid unnecessary duplication of effort, it can leverage the Regional Board's staffing and financial resources.

33. The Impaired Waters Policy also makes clear that the Regional Board cannot delegate nor abdicate its water quality responsibilities and may not indefinitely defer taking necessary action if another entity is not properly addressing a problem. To ensure that the Regional Board retains adequate oversight, certain specific findings must be made about the program to be certified as follows:

    a. The 5C Program is consistent with the assumptions and requirements of the TMDL;
    b. Sufficient mechanisms exist to provide reasonable assurances that the program will address the impairment in a reasonable period of time; and
    c. Sufficient mechanisms to enforce exist or the Regional Water Board otherwise has sufficient confidence that the program will be implemented, such that further regulatory action in the form of a TMDL implementation plan by the Regional Board is unnecessary and would be redundant.

34. The 5C Program addresses sediment and temperature impairments by requiring:

    a. The application of BMPs on county roads and at corporation yards to avoid excess sediment discharges;
    b. The protection and maintenance of riparian conditions and shade, within the County road right of way and property; and
    c. Inventories, prioritization and remediation of sediment delivery sites. These measures are consistent with existing sediment and temperature TMDL implementation requirements to meet relevant load allocations. The 5C Program is also recognized as a proper implementation tool under the Sediment TMDL Implementation Policy and the draft Temperature Implementation Policy.

35. This Order sets targets for sediment site inventories and a monitoring and reporting program for oversight, including a reassessment of the progress and success of the program in reducing sediment sources and retaining and improving shade. Order conditions are enforceable.

36. The 5C Program contains conditions that require trackable progress. In addition, this Order includes a monitoring and reporting program adopted by the Regional Water Board. Conditions 3, 5 and 6 of this Order provide a timeline and require assessment of progress, and condition 17 is a provision for terminating coverage under the Order if adequate progress is not made. Condition 16 of this Order is a provision for terminating coverage under the Order if the program is not adequately implemented. Implementation of this Order and the 5C Program comply with the requirements of the NPS Policy.

37. The commitment of the 5C Counties to implement the 5C Program has been demonstrated since 1998, when the 5C Program commissioned an assessment of County activities and management practices on salmonids and water quality. Work on development of the 5C Roads Manual began in 2000. The 5C Roads Manual was completed in 2002 and has been in use by the 5C Counties since then to address potential adverse impacts to water quality from county road management and maintenance activities. DIRT county road sediment source inventories have been conducted, as funding and time permits, since 2000 and have yet to be completed. Since the Program began, 5C workshops and best management practice trainings have regularly occurred, as funding permits.

38. The 5C Counties have continued to maintain the 4(d) exemption under the federal ESA (16 U.S.C §§ 1531-1544) by implementing the 5C Roads Manual, participating in annual training, and monitoring and reporting their activities. The 5C Program implementation history over the last decade and 5C Counties commitment to compliance with the federal ESA 4(d) rule provides the basis for finding that the 5C Program, inclusive of implementation of the 5C Roads Manual, will continue to remain in place and will succeed in addressing the sediment and temperature impairments in a reasonable period of time. Therefore, 5C Program certification is appropriate to ensure attainment of water quality standards with consideration of seasonal variations, financial resources and a margin of safety.

Additional Findings

39. State Water Board Resolution No. 68-16 Statement of Policy with Respect to Maintaining High Quality of Waters in California (Resolution No. 68-16) requires that regional water boards, in regulating the discharge of waste, to maintain high quality waters of the state, require that any discharge not unreasonably affect beneficial uses, and not result in water quality less than that described in regional water board's policies. This Order is consistent with Resolution No. 68-16 because it will result in a net benefit to water quality by implementing BMPs for road maintenance and repair activities, providing riparian and shade protections, and address existing sediment delivery sites. The activities permitted under this Order have been determined to have a low potential impact to water quality when conducted pursuant to the terms of the Order, resulting in compliance with applicable water quality control plans, including applicable water quality objectives. Additionally, this Order requires monitoring of and reporting on covered activities to ensure full implementation and to document the effectiveness of the BMPs used in accordance with the Waiver. Reporting enables the information gathered from implementation and effectiveness monitoring to be used by the Counties to modify BMPs and correct any failures that have or may result in impacts to water quality, and to inform the Counties and the Regional Water Board of BMP/project successes and failures.

40. As lead agency under the California Environmental Quality Act (CEQA), the Regional Water Board provided notice of intent to adopt a mitigated negative declaration (SCH No. 2013032042) for this Order on May 2, 2013 (Cal. Code Regs., tit. 14, § 15072.). The mitigated negative declaration reflects the Regional Water Board's independent judgment and analysis. After considering the document and comments received during the public review process, the Regional Water Board hereby determines that the proposed project, with mitigation measures, will not have a significant effect on the environment. The documents or other material, which constitute the record, are located at 5550 Skylane Blvd, Suite A, Santa Rosa, CA 95403. The Regional Water Board will file a Notice of Determination within five days from the issuance of this order. Mitigation measures necessary to reduce or eliminate significant impacts on the environment, and monitoring and reporting are incorporated as conditions of approval below.

41. Subject to a notification requirement, Water Code section 13269, subdivision (c) allows the Regional Water Board to waive waste discharge requirements for discharges resulting from immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor. These activities and those specific actions necessary to prevent or mitigate an emergency (does not include long-term projects) are exempt from CEQA. (Cal. Code Regs., tit. 14, §15269.) The Regional Water Board has discretion to establish conditions on any such waiver. (Water Code, § 13269, subd. (d).)

42. This Order covers discharges from emergency actions defined in California Code of Regulations, title 14, section 15269. The Order requires the 5C Counties to notify the Regional Water Board of emergency activities, and to maintain records for Regional Water Board staff review, as appropriate.

43. The Regional Water Board has reviewed the contents of this Order, its accompanying Initial Study and Mitigated Negative Declaration, written public comments and testimony provided after notice and hearing and finds that the adoption of this Order is consistent with the Basin Plan, and is in the public interest.

THEREFORE, THE REGIONAL WATER BOARD HEREBY CERTIFIES that, having made the requisite findings in paragraphs 32-38 above, the 5C Program as implemented through this Order, is consistent with the assumptions and requirements of sediment and temperature TMDLs in the North Coast Region, including EPA-established TMDLs, and will ensure attainment of water quality standards for the activities described in finding 2; and

IT IS HEREBY ORDERED that the provisions of Water Code section 13260, subdivision (a) and (c), and Water Code section 13264, subdivision (a) are hereby waived for discharges from 5C Counties' road maintenance and repair that result from emergency actions, as

defined in California Code of Regulations, title 14, section 15269. For these discharges, no application procedures are required; however, the 5C County shall notify the Regional Water Board of any in-stream emergency repair work in which a discharge is likely, within 48 hours of the initiation of such activities. A record of any emergency repair work shall be maintained for Regional Water Board staff review, as appropriate; and

IT IS HEREBY ORDERED that pursuant to Water Code sections 13263, subdivision (a), 13267, and 13269, the Regional Water Board waives the requirement to submit a report of waste discharge and the requirement to establish waste discharge requirements for activities described in finding 2, for those 5C Counties who participate in the on-going collaborative 5C Program, including the implementation of the 5C Roads Manual and compliance with the following conditions:

1. Each 5C County and its contractors shall conduct road maintenance, repair activities, and projects described in finding 2 in compliance with the 5C Roads Manual and this Order.

2. Each 5C County shall manage activities in riparian zones per the 5C Roads Manual to retain adequate vegetative cover that results in natural shade conditions for riparian zones as detailed in the 5C Roads Manual. For fish bearing watercourses the riparian zone shall be 100 feet on either side of the watercourse, and for non-fish bearing watercourses the riparian zone shall be 50 feet on either side of the watercourse.

3. Each 5C County shall actively address legacy sediment discharges and/or threats to water quality. Sediment delivery sites must be inventoried, prioritized, and scheduled for remediation. There is an expectation that each 5C County will make reasonable progress towards completing road inventories and remediating legacy sediment delivery sites.

   The Regional Water Board recognizes that economic hardship has beset the counties and requires consideration in the assessment of reasonable progress. To that end, the Regional Water Board will evaluate progress on the DIRT inventories on an annual basis. The DIRT inventories are to be completed within the 5C Counties, which encompasses the California portion of the Southern Oregon Northern California Coho evolutionarily significant unit.

   The purpose of the DIRT inventory is for remediation of sites on a priority basis, with the highest priority sites (e.g. those with the largest water quality impacts or potential for impacts) receiving attention first. However, that does not preclude addressing lower priority sites in the normal conduct of operations or in concert with remediation of higher priority sites or as funding sources targeting other priorities becomes available. The pace of remediation will be evaluated on an annual basis, and any necessary adjustments may be made upon Order renewal in five years, or sooner, if appropriate.

4. Each 5C County shall participate in 5C Program training and conduct its own training programs pursuant to the guidance in the 5C Roads Manual, Chapter 11.

5. Each 5C County, or its designee, shall submit a brief annual report for the previous calendar year (January 1-December 31) to the Regional Water Board by March 1 of each year which includes: a) results of BMP implementation and effectiveness monitoring, including corrective actions in the event of BMP failure; b) suggested changes to BMPs and the 5C Roads Manual for better water quality protection; c) proposed schedule for addressing high priority DIRT sites for the coming year; d) description of the progress on the DIRT inventories and site prioritization; e) investigations of illicit discharges to County rights of way or drainages; f) trainings attended by roads staff; and g) description of efforts made to obtain funding (grants and otherwise) to aid in implementation of the 5C Program. Some of this required information may be submitted directly by 5C Program staff as a summary of the entire region.

6. Regional Water Board staff and staff from 5C Counties, or their designees, covered by this Order shall conduct annual meetings by April 15 of each year to discuss and rectify any issue with Order compliance, TMDL implementation, or any other issues associated with this Order.

7. The 5C Counties are responsible for Order compliance, regardless of whether the activities covered by this Order are conducted by its employees or its contractors. In addition, contractors must comply with all applicable conditions of this Order.

8. 5C Counties within the North Coast Region shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2009-0009-DWQ) for construction projects on county land that disturb one or more acres of soil, or less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.[6]

9. 5C Counties within the North Coast Region shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Industrial Activities (Industrial General Permit, 97-03-DWQ) for maintenance yards unless already covered under a municipality's stormwater permit.

10. This Order does not preclude the need for permits which may be required by other governmental agencies, including necessary certification and permitting for the application of pesticides and herbicides.

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[6] Construction activities subject to the Construction General Permit include clearing, grading and disturbances to the ground such as stockpiling, or excavation, but do not include regular maintenance activities performed to repair roads, and related facilities, routine maintenance activities associated with county road yards, and emergency road-related activities.

11. 5C Counties shall comply with all mitigation measures identified in the accompanying mitigated negative declaration. CEQA mitigation measures shall constitute enforceable conditions under this Order.

12. Compliance with Order conditions will ensure that no significant environmental impact to water quality occurs from an activity covered by this Order. Activities that have potentially significant impacts to water quality that cannot be reduced to less than significant levels are not eligible for coverage under this Order and the 5C County will need to submit a Report of Waste Discharge to the Regional Water Board and obtain individual authorization for that activity.

13. 5C Counties shall comply with all applicable water quality standards, requirements, and prohibitions specified in the Basin Plan as modified, and policies adopted by the State Water Board.

14. Projects covered under this Order shall not discharge substances in concentrations toxic to human, plant, animal or aquatic life. Projects covered under this Order shall not discharge waste classified as "hazardous" as defined in California Code of Regulations, title 22, section 66261 and Water Code section 13173.

15. 5C Counties shall not cause a pollution, contamination, or nuisance as defined by Water Code section 13050.

16. Water Code 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 Water Board. The Executive Officer or Regional Water Board may terminate the applicability of this Order to the 5C Program activities for any 5C County at any time, if the 5C Program has not been adequately implemented, or is not achieving its goals to restore sediment and temperature impaired waterbodies.

17. This Order does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the Water Code.

COVERED ACTIVITIES

Routine Maintenance Activities

Routine Maintenance Activities include activities that are conducted as part of routine annual road maintenance, generally do not take place within the channel of a watercourse, and have a low likelihood of impacts to water quality. Activities in this category include those listed below. Regional Water Board staff, as well as the counties participating in the 5C Program, may add or remove additional types of activities to this classification, subject

to approval by the Regional Water Board Executive Officer. Activities conducted as part of routine annual road maintenance include those listed below.

1. Grading practices including shoulder blading and rebuilding, erosion repair, and ditch shaping and cleaning;
2. Road surfacing and dust abatement including road surface repair, water drafting;
3. Vegetation management including mowing and cutting of vegetation, invasive weed abatement, and tree removal;
4. Ditch relief culvert cleaning, ditch relief culvert location selection and installation;
5. Winterizing roads;
6. Soil disposal including disposal site maintenance, disposal site closure, and stockpile maintenance;
7. Maintenance yard housekeeping practices including building and yard maintenance, vehicle and equipment maintenance, and material use and storage;
8. Emergency maintenance; and
9. Snow and ice removal including sanding, de-icing, and anti-icing chemicals.

Road Project Activities

Road Projects include projects that are generally not considered to be routine annual road maintenance, that may take place within the channel of a watercourse or are directly connected to a watercourse, and that may require a permit from the Army Corps of Engineers pursuant to section 404 of the Clean Water Act (CWA§404 permit). Regional Water Board staff, as well as the counties participating in the 5C Program, may add or remove additional types of activities to this classification, subject to approval by the Regional Water Board Executive Officer. Activities conducted as part of Road Projects include those listed below.

1. Channel maintenance;
2. Low water crossing maintenance;
3. Watercourse crossing culvert maintenance including culvert cleaning, culvert improvement and repair, culvert replacement, and temporary stream diversions during in-stream projects;
4. Bridge drift removal; and
5. Treatment of legacy sites involving repair, upgrading, replacement of watercourse crossings, road outsloping and rolling dip installation, hydrologic disconnection of inside ditches and installation of ditch relief culverts, and reshaping cutbanks.

Road Projects may involve several different activities and several different work locations.

WAIVER APPLICATION FOR COVERED ACTIVITIES

This Application procedure is issued pursuant to California Water Code section 13267(b). The reasons for requiring the Discharger to provide this information, and the evidence supporting this need, can be found in the Order. The Regional Water Quality Control Board has delegated its authority to the Executive Officer to revise, modify, and reissue the Application procedure.

Application Process for Routine Road Maintenance

1. To receive Waiver coverage for routine road maintenance, the county shall submit to the Regional Board Executive Officer an NOI signed by a county roads Superintendent or their authorized representative (Attachment A). The NOI certifies the county's intent to comply with conditions of this Waiver and to implement the 5C Program. Coverage of Routine Road Maintenance Activities will be valid for the life of this Waiver, provided the county continues to meet applicable Waiver conditions, including monitoring and reporting.

Application Process for Road Projects

1. By March 1 each year, counties seeking Waiver coverage for Road Projects shall submit to the Regional Water Board a list of the planned Road Projects for which they are seeking Waiver coverage for the upcoming calendar year. Projects can be added to the list after March 1 due to unforeseen circumstances. Such additions should be coordinated with RWB staff.

2. Each project in the list shall, at a minimum, contain the following information:

    a. The Project name.
    b. A description of where the Project is located. Include such features as the watershed, the nearest river or creek, and any useful reference points. A map with sufficient detail so as to easily identify the project's location is acceptable. Maps may contain more than one project, provided each project is clearly labeled.
    c. An indication of whether the Project will require the General 401 Water Quality Certification contained in this Waiver.
    d. A description of the project with enough detail to provide an overview. For projects requiring the General Water Quality Certification, the General Water Quality Certification or LSA 1602 application shall suffice for the project description.
    e. The anticipated Project start and end date.
    f. The name, mailing address, email address, and phone number for the Project lead staff.

3. For Road Projects under Order No. R1-2013-0004, requiring the General Water Quality Certification, the County shall submit a completed application for each road project for *General 401 Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill)* (General Water Quality Certification application; Attachment B) to the Regional Water Board. Road projects may have multiple sites and involve multiple activities.

4. Only one application is needed for each Road Project. Applications for Road Projects with multiple work sites will need to include information on the work to be done at each site.

5. If the discharger is required to complete and submit a California Department of Fish and Wildlife *Notification of Lake or Streambed Alternation* application (LSA 1602 application) for the proposed project, the LSA 1602 application may be substituted for the General Water Quality Certification application.

6. If the General Water Quality Certification application, or LSA 1602 application, is complete the Regional Water Board shall accept or deny it in writing within 30 days from its receipt of the application and application fee. Certified mail may be used to confirm the delivery date of the application and the initiation of the 45-day review period. The county will be notified by mail of receipt of the application and application fee.

7. The Executive Officer has the discretion to adjust timeframes at the written request of the Discharger or authorized representative.

8. Upon completion of the Road Project, the county, or their authorized representative, shall submit a Notice of Completion (Attachment C) upon completion of a Road Project, certifying that all the conditions and monitoring and reporting requirements of this Waiver have been met. The enrollment under this Waiver will be terminated upon receipt of a Termination of Coverage letter from the Executive Officer, or 30 days after the Notice of Completion has been sent, whichever occurs first; and

THE REGIONAL WATER BOARD HEREBY CERTIFIES that projects in compliance with the waiver conditions above will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, subject to the following additional terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.

2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, section 3833, subdivision (b)(3). Annual Fee Schedules are detailed in the California Code of Regulation, title 23, section 2200.

4. This general certification applies only to projects subject to the waiver. Non 5C Program dischargers may seek coverage under this Order for similar activities subject to public notice and approval by the Regional Water Board Executive Officer.

5. A 5C County seeking water quality certification coverage shall notify the Regional Water Board at least 30 days prior to commencement of the activity and submit information regarding the construction schedule and other relevant information (form provided in Appendix A), and appropriate fee. The Regional Water Board will notify the 5C County within 30 days if the project or activity does not meet the specified criteria for coverage. A list of projects covered by this General Water Quality Certification will be posted on the Regional Water Board's website.

6. The authorization of this certification for any General Water Quality Certification or dredge and fill activities expires five (5) years from the date the activity commences.

7. Waiver conditions 1, 2, and 7-16 are enforceable conditions of this General Water Quality Certification.

8. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

9. This General Water Quality Certification portion of the Order may be modified as needed by the Executive Officer of the Regional Water Board.

Certification:

I, Matthias St. John, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California North Coast Regional Water Quality Control Board, on May 2, 2013.

_____
Matthias St. John
Executive Officer

Attachments:
A. Notice of Intent Form
B. 401 General Water Quality Certification Form
C. Notice of Completion Form

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