



April 14, 2017

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To the Central Valley Water Board:

The **California Licensed Forester's Association (CLFA)** represents California Registered Professional Foresters (RPF) and associated professionals, who are responsible for the sustained management of millions of acres of California forestland. We are writing today to comment on the proposed General Order which will replace the Conditional Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvesting Activities (Waiver).

Initial concerns regarding the proposed regulations are that this order overlaps current California Forest Practice Rules and doubles the agencies oversight on timber harvesting operations. The proposed regulation would also impair the current "lead agency" designation that CAL FIRE has in reviewing and approving Timber Harvest Projects of all form. This loss of lead agency status would make it unclear which agency would be directly in control of Final Timber Harvest Project approval. This lack of clarity could lead to civil litigation being levied by Project Proponents and possibly civil lawsuits between state agencies as well.

The following comments are addressing the tentative proposed regulations within the general order:

- Page 1-2, Item 7. "The adoption of individual WDRs for all timberland management activities in the Central Valley Region is not feasible due to the large number of timber harvesting documents received annually for review, the short mandated timeline for the approval of non-federal timberland management activities, and the time needed to adopt individual WDRs" *Comment – Regional Water Quality Control Board staff are allowed to participate in the Pre Harvest Inspection (PHI) Process to voice concerns and propose mitigations for THP's. Although, there is no PHI for Exemptions or Emergencies, perhaps Water Quality Control Board staff time would be better spent with field visits in conjunction with CAL FIRE Forest Practice Inspectors; and suggesting more quantifiable and localized mitigation measures that can be implemented prior to the winter period; rather than a one size fits all mitigation (i.e. 50% ground cover left after timber harvesting operations).*
- Page 3, Item 14. c.) "The discharges require the same or similar treatment standards and d.) The discharges are more appropriately regulated under general requirements than individual requirements" *Comment – Again, a one size fits all same or similar treatment may not be the most effective mitigation. Field visits by water board staff could provide more direct and tailored mitigations that would probably provide better results for protecting soil and water resources. Individual requirements (localized mitigations) may be a better fit for maintaining water quality in the long run.*

- Page 4, Item 16. c) “Roads or watercourse crossings in poor condition” *Comment - There is no definition of what “poor condition” represents, and who is to determine if something is in “poor” condition? If there is an impasse or disagreement, who is the arbiter?*
- Page 4, Item 16. d) “Intensity of silvicultural prescriptions and/or yarding methods and Intensity of site preparation and/or road construction/reconstruction.” *Comment - Again, which agency is to determine the definition of this statement? What does “Intensity” mean? How can anyone but an RPF determine this?*
- Page 8, Item 27 a): “Timberland management activities in California are primarily regulated by other agencies, including CAL FIRE and the U.S. Forest Service. The Central Valley Water Board does not approve timberland management activities, but it does have authority to require compliance with the Water Code.” *Comment - If there is a situation where there is a conflict between a CAL FIRE and Water Quality representative regarding a crossing, which agency is the final arbitrator?*
- Page 8, Item 27. b. – “Without this Order, timberland management activities would continue under authority of those other agencies, but such activities may not be subject to appropriate conditions protective of water quality” *Comment - The Ca. Forest Practice Rules specifically address the protection for the Beneficial Uses of Water, for THP’s, Exemptions and Emergencies. Water quality is already adequately addressed and protected within the THP process, and is enforced by CAL FIRE.*
- Page 8, Item 27. j. – “This Order allows staff to continue to participate in the review of proposed timberland management Projects, providing staff the opportunity to require implementation of protective measures beyond those required by CAL FIRE and the U.S. Forest Service for the most critical timber operations” *Comment – What are “most critical timber operations?” This requires a definition. Also, CAL FIRE is presently the lead agency for review and approval of THP’s, Emergencies and Exemptions. Water Quality Control Board staff may be overstepping their jurisdiction on required implementation of protection measures. There is a possibility that state attorneys and possibly Office of Administrative Law (OAL) may have to sort out those particular details.*
- Page 12, “Annual Notice of Operations Prior to startup 3A” - *Comment - Perhaps CAL FIRE local ranger units could forward approved Commencement of Operation for THPs to the appropriate Regional Water Quality Control Board office to address this issue.*
- Page 16, Item C. 3. b) ii. 3. – “The Discharger shall notify the Central Valley Water Board in writing at least 30 days prior to any proposed application of pesticides. The notification does not need to include information on hack and squirt or individual stump applications. The written notification shall include the type(s) of pesticide(s), the proposed date(s) of application, the method(s) of application, the area(s) of application (CAL FIRE Notice number and Township/Range/Section), a description of measures that will be employed to assure compliance with the applicable Basin Plan, and documentation of 50% or greater effective groundcover (as applicable). Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application” *Comment – The use of pesticides (herbicides) on California forestland is presently regulated by the Ca. Dept. of Pesticide Regulations and local county agencies. In fact, the Ca. Forest Practice Rules supersede the pesticide aquatic buffer widths as provided in current labels by establishing WLPZs, EEZs, and ELZs buffers for all classes of lake and watercourses. These watercourse buffers greatly inhibit the deposition of pesticides into waterways during and after the application process. Documentation of pesticide use on forestland is provided to the by Ca. Dept. of Pesticide Regulations as well as local county agencies. Having the Regional Water Quality Control Board further document the use of pesticide use on forestland is repetitive and redundant. Establishment of watercourse buffers coupled with localized soil protection mitigations (adequate ground cover with slash and mulch, proper waterbar spacing, contour tilling, etc.) should provide proper protection from preventing pesticides from entering waterways within timber harvest areas.*
- Page 23, Item E. 1. b) - “A NOI is submitted on a project-by-project basis (i.e. no long-term enrollment of a MATO)” *Comment - Wouldn’t an annual Commencement of Operations be more appropriate for a MATO?*

POST-FIRE MANAGEMENT AND REFORESTATION PLAN GUIDANCE AND TECHNICAL STANDARDS FOR CATEGORIES 2A AND 5A

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  - D. Pesticide Application a. “Describe the following: i. Chemical(s); ii. Application method(s); iii. Schedule for application (dates); iv. Location(s) of application (Emergency Notice number and/or Township/Section/Range); \*\*Changes to any of the above (D. a. i-iv.) must be submitted in writing no less than 48 hours prior to pesticide application” *Comment - Once again, the items listed above are controlled and mitigated by other state and local agencies. Pesticide applicators need flexibility in timing their applications due to local weather and wind conditions. The proposed regulations by the Regional Water Quality Control Board are too stringent to allow applicators the ability to adapt and change their application times and dates.*

CLFA would like to thank the Central Valley Regional Water Quality Control Board for the chance to comment on the Tentative Proposed General Order. We hope that you would take our comments and concerns under advisement before final approval of the order. Please feel free to contact us if you would require any further information from our organization.

Sincerely,

A handwritten signature in blue ink that reads "Jay Fazio". The signature is cursive and fluid.

Jay Fazio  
CLFA President

CC: CLFA Board