

California Regional Water Quality Control Board
North Coast Region

ORDER NO. R1-2004-0016

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

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

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 Order No. R1-2004-0015 rescinded sections of Order No. R1-2003-0116 that pertained to federal lands.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

9. The US Environmental Protection Agency and the State Water Resources Control Board are authorized to certify that the California Forest Practice Rules are Best Management Practices for timber operations on non-federal lands. When or if both entities so certify, timber harvest activities on non-federal lands will be exempt from waste discharge requirements pursuant to the Z'berg-Nejedly Forest Practice Act Section 4514.3, except as provided for in Section 4514.3(b)(1)-(3). That has not occurred to date.
10. A Memorandum of Understanding (MOU) was entered into between the State Water Resources Control Board, Regional Water Boards and the California Department of Forestry and Fire Protection in March 2003 for the purpose of identifying procedures that will be used by each agency in carrying out their statutory responsibilities to prevent adverse effects on beneficial uses of water from silvicultural activities on non-federal land. Issues addressed in the MOU include application of CEQA to timber harvest review process, use of water quality standards and Basin Plans in timber harvest review process, monitoring of water quality, conflict resolution process, staff coordination and training and further actions.
11. This Order establishing a categorical waiver shall not create a vested right and all discharges covered by it shall be considered a privilege, not a right, as provided in CWC 13263.
12. This Order does not apply to discharges requiring an National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act, including, but not limited to, silvicultural point sources as defined in 40 Code of Federal Register (CFR) 122.27.
13. Pursuant to CWC Section 13269, the waivers of waste discharge requirements for the categories of waste specified herein shall not exceed five years in duration; that this action waiving the issuance of waste discharge requirements for certain specific types of discharges (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Board from administering enforcement remedies (including civil penalties) pursuant to the CWC.
14. The Executive Officer or Regional Board shall terminate the applicability of this Order to any timber harvest activities at any time when such termination is in the public interest and/or the timber harvest activities could affect the quality or beneficial uses of the waters of the state.
15. The Regional Board may determine that discharges for projects where the applicant proposes to obtain coverage under categorical waivers contained herein would be better regulated under individual waivers, individual waste discharge requirements (WDRs), under general WDRs, watershed WDRs, or ownership WDRs.
16. A waiver of waste discharge requirements for a type of discharge may be superceded by the adoption by the State Water Resources Control Board or Regional Board of specific or general waiver or waste discharge requirements.

17. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan), including State Water Resources Control Board (State Water Board) Resolution No. 88-63, the existing and potential beneficial uses of waters potentially affected by the proposed activity include:
 - a. Municipal and Domestic Supply (MUN)
 - b. Agricultural Supply (AGR)
 - c. Industrial Service Supply (IND)
 - d. Industrial Process Supply (PROC)
 - e. Groundwater Recharge (GWR)
 - f. Freshwater Replenishment (FRSH)
 - g. Navigation (NAV)
 - h. Hydropower Generation (POW)
 - i. Water Contact Recreation (REC-1)
 - j. Non-contact Water Recreation (REC-2)
 - k. Commercial and Sport Fishing (COMM)
 - l. Cold Freshwater Habitat (COLD)
 - m. Warm Freshwater Habitat (WARM)
 - n. Wildlife habitat (WILD)
 - o. Preservation of Areas of Special Biological Significance (BIOL)
 - p. Rare, Threatened, or Endangered Species (RARE)
 - q. Marine Habitat (MAR)
 - r. Migration of Aquatic Organisms (MIGR)
 - s. Spawning, Reproduction, and/or Early Development (SPWN)
 - t. Shellfish Harvesting (SHELL)
 - u. Estuarine Habitat (EST)
 - v. Aquaculture (AQUA)
18. The Basin Plan contains water quality objectives developed to protect the above-listed beneficial uses of water. Economic considerations were considered as required by law during the development of these objectives. Prohibitions, provisions, and specifications contained in this Order implement these previously developed water quality objectives. Compliance with Water Quality Standards will protect the beneficial uses listed in Finding 17 above.
19. This Order is consistent with the provisions of State Water Resources Control Board (State Water Board) Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California"
20. The Regional Board, acting as the lead agency for this project under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (CEQA), has conducted an Initial Study in accordance with Title 14, CCR Section 15063.
21. Timber harvesting activities covered under these Waste Discharge Requirements must, as a precondition, have achieved compliance with CEQA, which for most of the activities covered will have been through the Timber Harvest Plan (THP) approval process at the California Department of Forestry (CDF). In issuing THPs, CDF acts as "lead agency,"

using a certified “functional equivalency” process, producing the equivalent to an Environmental Impact Report.

22. The Regional Board does not grant timber harvest permits, but reviews these permitted activities and their attendant environmental documents to determine and require compliance with the Basin Plan and the Porter-Cologne Water Quality Control Act. In that process, the Regional Board acts as a responsible agency under CEQA, relying on the environmental review documents prepared by CDF. CEQA specifically provides that in so doing, the environmental documents prepared by the lead agency are to be conclusively presumed adequate, with limited specified exceptions, and must be relied upon by the responsible agency in complying with CEQA. (Pub. Resources Code, section 21167.2; Title 14, California Code of Regulations, section 15231.) In acting as a responsible agency reviewing these permitted operations, the Regional Board exercises its authority to require any additional regulatory restrictions that may be necessary to go beyond mere avoidance of “significant adverse environmental impacts,” to require whatever is necessary to comply with the requirements of the Basin Plan and Porter-Cologne Water Quality Control Act.
23. Consistent with the CEQA Guidelines’ Class 7 Exemption, this Order is an action taken by a regulatory agency “to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.” (14 CCR § 15307.) Similarly, consistent with Class 8, this Order is an action taken by a regulatory agency “to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.” (14 CCR § 15308.)
24. Despite the eligibility for these exemptions, out of an abundance of caution, and knowing the controversial nature of timber harvest activities and all regulatory actions relating thereto, the Regional Board has prepared a CEQA document. That Negative Declaration is fully supported by the record and the law. There is no evidence in the record to support a fair argument that this Order will result in significant environmental effects
25. The Regional Board staff has prepared a proposed Negative Declaration, a copy of which is attached hereto, in accordance with CEQA and the CEQA Guidelines (Title 14, CCR Section 15000 et seq.). The Negative Declaration concludes that the waiver of waste discharge requirements for timber harvest operations pursuant to Order No. R1-2004-0016 will not have a significant impact on the environment.
26. Copies of the proposed Negative Declaration were transmitted to all agencies and persons known to be interested in this matter according to the applicable provisions of CEQA.
27. The Regional Board conducted a public hearing on May 11, 2004 and on June 23, 2004, in Santa Rosa, California, and considered all evidence concerning this matter and adopted the Negative Declaration, a copy of which is attached hereto, and this Order, Categorical Waiver for Timber Harvest Activities On Non-Federal Lands in the North Coast Region.
28. The Regional Board, based on the testimony received at the aforementioned hearings, and the Initial Study and Negative Declaration, determines that the adoption of the waivers of

waste discharge requirements for timber harvest activities in accordance with Order No. R1-2004-0016 will be consistent with the Basin Plan, will be in the public interest, and will not have a significant impact on the environment.

29. The Regional Board, in accordance with CEQA and State Guidelines, determines that there will be no significant adverse environmental impacts, individually, or cumulatively from this Order provided that there is compliance with its prohibitions, provisions, criteria, and conditions.
30. As provided by CWC Section 13350(a), any person may be liable for civil penalties if that person in violation of a waiver condition, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance.
31. Most water bodies in the North Coast Region are listed as impaired due to either sediment and/or temperature (Section 303(d) of the Clean Water Act). Federal regulations require that a total maximum daily load (TMDL) be established for 303(d) listed water bodies for each pollutant of concern. TMDLs for North Coast water bodies are scheduled to be completed. In the absence of an applicable TMDL Action Plan (also know as a TMDL Implementation Plan), waste discharge requirements or conditional waivers are necessary to control pollutants of concern in discharges to 303(d) listed waters. Discharges cannot cause or contribute to water quality or beneficial use impairment.
32. Effective January 1, 2004, Water Code Section 13269 requires that waivers include the performance of individual, group, or watershed-based monitoring. This monitoring requirement may be waived for discharges that the Regional Board determines do not pose a significant threat to water quality. The categorical waivers set out herein are only for Projects that do not pose a significant threat to water quality. Discharges that pose a significant threat to water quality are not permitted by this Order. Any project covered hereby that warrants it and meets the criteria of CWC section 13267(b), however, will be subject to a monitoring program as directed by the Executive Officer.

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

IT IS HEREBY ORDERED that effective June 23, 2004, Order No. R1-2003-0116 is hereby rescinded, except for application to Projects that have been accepted for filing but not yet approved by the California Department of Forestry and Fire Protection as of the adoption date of Order No. R1-2004-0016 and Order No. R1-2004-0030. Such Projects are eligible for coverage under Order No. R1-2003-0116 until October 15, 2004, should they qualify under the terms and conditions of that Order. All other dischargers seeking coverage under this Order shall comply with the following:

SECTION I: DEFINITIONS

- A. "Controllable sediment discharge source" means sites or locations, both existing and those created by proposed timber harvest activities, within the Project area that meet all the following conditions:
1. is discharging or has the potential to discharge sediment to waters of the state in violation of water quality requirements or other provisions of these General WDRs,
 2. was caused or affected by human activity, and
 3. may feasibly and reasonably respond to prevention and minimization management measures.
- B. "Discharger" means the timberland owner and anyone working on behalf of the timberland owner in the conduct of timber harvest activities on non-federal lands.
- C. "Erosion Control Plan" means a plan designed and implemented to prevent and minimize the discharge of sediment to waters of the state in violation of water quality requirements or other conditions of this Order and submitted with the Project seeking coverage under the Categorical Waiver E: Nonindustrial Timber Management Plans (NTMPs). The Erosion Control Plan (ECP) shall be developed by a qualified professional, included in the approved Project, and shall incorporate Regional Water Board recommendations generated as part of the Project review and approval process that were designed to prevent and minimize discharge of sediment. The ECP shall include but is not limited to, a map clearly showing the location(s) of the site(s) that could discharge sediment, site specific designs and/or management measures to prevent and minimize the discharge of sediment, and a time schedule for implementation of site specific designs and/or management measures.
- D. "Minimization" means the discharge or threatened discharge of sediment that cannot be prevented during design of the Project.
- E. "Monitoring" refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions. This includes, but is not limited to, assessment monitoring, trends monitoring, Basin Plan compliance monitoring, forensic monitoring, hillslope and instream effectiveness monitoring, and implementation monitoring.
- F. "Prevention" means the Project has been designed with the intent of preventing the discharge or threatened discharge of sediment waste through the use of all feasible and reasonable project design, timing and sediment control practices.
- G. "Project" means any Timber Harvest Plan, Nonindustrial Timber Management Plan, other discretionary permits issued by the California Department of Forestry and Fire Protection (CDF) to harvest timber, including all amendments thereto that propose a change in timber harvest activities that in any way could adversely affect water quality, or any Notice of Exemption or Notice of Emergency Timber Operation accepted by CDF, or any other project, as defined by CEQA, that involves timber harvest activities provided that the project has complied with CEQA.

- H. "Qualified professional" means a person with the appropriate training and/or licensing to prepare an Erosion Control Plan or other technical reports designed to prevent the discharge of waste into waters of the state and conduct site inspections, including but not limited to, persons successfully completing the Ranch Water Quality Planning Short Course, Certified Erosion Control Specialists, Registered Professional Foresters, Registered Geologists, Certified Engineering Geologists, and Professional Civil Engineers.
- I. "Sediment Prevention Plan" means a plan designed and implemented to prevent and minimize the discharge of sediment to waters of the State and submitted as part of a Project seeking coverage under Categorical Waiver F: Other Projects when applicable. The Sediment Prevention Plan (SPP) shall be developed by a qualified professional, included in the approved Project, and shall incorporate Regional Water Board staff recommendations generated as part of the timber harvest review and approval process for each Project. The Sediment Prevention Plan (SPP) shall include, but not be limited to, a map clearly showing the location(s) of the site(s) that could discharge sediment, and site-specific designs and/or management measures to prevent and minimize the discharge of sediment.
- J. "Timber Harvest Activities" means commercial and non-commercial activities relating to forest management and timberland conversions. These activities include the cutting or removal or both of timber and other solid wood forest products, including Christmas trees, as well as, but not limited to, construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, watercourse crossings, landings, skid trails, or beds for the falling of trees; fire hazard abatement and fuel reduction activities; burned area rehabilitation; site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities; but excluding preparatory treemarking, surveying or roadflagging.
- K. "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal. Wastes specifically regulated under this Order include: earthen materials including soil, silt, sand, clay, rock; organic materials such as slash, sawdust, or bark that enter or threaten to enter into waters of the state; heat; petroleum products; and nutrients. Not all wastes are covered by this waiver. Examples of wastes not specifically regulated or waived under this Order include: pesticides, hazardous materials, or human wastes.
- L. "Water Quality Requirements" means a water quality objective (narrative or numeric), prohibition, TMDL implementation plan, policy, or other requirement contained in a water quality control plan adopted by the Regional Board and approved by the State Water Board, and all other applicable plans or policies adopted by the Regional Board or State Water Board, including, but not limited to, State Water Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality Waters in California.

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

SECTION II: STRUCTURE OF ORDER, APPLICATION PROCEDURES AND SUBMISSION REQUIREMENTS

This section briefly explains the structure of this Order, application procedures, and specifics regarding submission requirements.

This Order sets out definitions (Section I), application procedures and submission requirements (Section II), categorical waivers (Section III), waiver for Projects previously waived under Order No. R1-2003-0116 (Section IV), and termination of coverage (Section V) for categorical waivers from timber harvest activities conducted on non-federal lands in the North Coast Region. These categorical waivers are for low impact Projects that do not pose a significant threat to water quality. Six separate categorical waivers are set out in Section III. Each waiver is delineated by a set of eligibility criteria, and in some cases, specific conditions. Section III also contains a set of general waiver conditions that apply to all waiver categories Section III (A) - (E). Section IV sets out eligibility criteria and conditions for waiver coverage for Projects previously waived under Order No. R1-2003-0116.

The first step in seeking coverage under this Order is to determine if a given Project meets the eligibility criteria for one of the six waiver categories. If the Project meets the eligibility criteria for a given categorical waiver, the Discharger must comply with all the specific and general waiver conditions, starting with submittal of the application documents, as required.

If a Project does not meet the eligibility criteria for one of the categorical waivers, that Project is then subject to an individual waiver, general WDRs, individual WDRs, or watershed wide WDRs.

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

- A. To seek coverage for new Projects (i.e. Projects not previously permitted or waived by the Regional Water Board) under a categorical waiver set out in Section III Categorical Waivers C - F the Discharger shall file a "Certification Notice" (described below). The Certification Notice shall be signed by the Discharger and shall state that the Discharger understands and intends to comply with all water quality requirements and the eligibility criteria and conditions, specific and general, of the appropriate categorical waiver. The Certification Notice shall also indicate the type of categorical waiver (Section III Categorical Waiver C: Total Maximum Daily Load Plan Projects; Categorical Waiver D: Modified Timber Harvest Plan Projects ; Categorical Waiver E: Nonindustrial Timber Management Plan Projects, or Categorical Waiver F: Other Projects) being sought.
- B. The submission of a Certification Notice is not required for Projects qualifying for coverage under the categorical waiver set out in Section III Categorical Waiver A: FireSafe Projects and Categorical Waiver B: Exemption and Emergency Projects). Such Projects must, however, meet the eligibility criteria and conditions, both specific

and general, to obtain and maintain coverage under Section III Categorical Waiver A and Categorical Waiver B.

- C. Unless other timeframes are specified, discharges associated with Projects that comply with the eligibility criteria, conditions, and procedures for a categorical waiver pursuant to Section III Categorical Waiver C: Total Maximum Daily Load Plan Projects, Categorical Waiver D: Modified Timber Harvest Plan Projects, Categorical Waiver E: Nonindustrial Timber Management Plan Projects, or Categorical Waiver F: Other Projects may commence no sooner than fourteen (14) days after receipt by the Regional Board of the applicable documents as described in Section II(A). The Regional Board Executive Officer will notify the Discharger in writing if coverage under the categorical waiver is determined to be inappropriate.
- D. 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 this Order for each new PTHP.
- E. Dischargers who fail to obtain coverage under this Order or another applicable order will be subject to enforcement under California Water Code (CWC) Sections 13350, 13264 and other applicable law if their Project results in an un-permitted discharge of waste.

SECTION III: WAIVER OF REPORTS OF WASTE DISCHARGE AND WASTE DISCHARGE REQUIREMENTS FOR NEW PROJECTS ON NON-FEDERAL LANDS

Section III sets out six (6) separate categorical waivers for new Projects (i.e. Projects not previously permitted or waived by the Regional Water Board). Each waiver category is delineated by a set of eligibility criteria, and in some cases, specific conditions. Section III also contains a set of general waiver conditions that apply to all six categorical waivers. The first step in seeking coverage under this Order is to determine if a given Project meets the eligibility criteria for one of the six waiver categories. If the Project meets the eligibility criteria for a given categorical waiver, the Discharger must comply with all the specific and general waiver conditions necessary to obtain and maintain waiver coverage, starting with submittal of application documents described in Section II.

Categorical Waiver A: Fire Safe Projects

In the case of FireSafe Projects, the following eligibility criterion and condition apply:

Eligibility Criteria:

1. Projects within 150 feet of existing structures (i.e., "FireSafe" treatments) that are conducted pursuant to a Notice of Exemption accepted by CDF under 14 CCR Section 1038(c) or subsequent fuel treatment exemptions adopted by the Board of Forestry and Fire Protection or another lead agency.

Conditions:

1. The Discharger and Project complies with the general waiver conditions set out in Section III(G).

Categorical Waiver B: Emergencies and Exemptions Projects

In the case of Emergency and Exemption Projects, the following eligibility criteria and condition apply:

Eligibility Criteria:

1. Projects that are defined as an Emergency or an Exemption pursuant to the FPRs.
2. The Project has been accepted by CDF.

Conditions:

1. The Discharger and Project complies with the general waiver conditions set out in Section III(G).

Categorical Waiver C: Total Maximum Daily Load Projects

In the case of Total Maximum Daily Load Projects, the following eligibility criteria and condition apply:

Eligibility Criteria:

1. The Project has been approved by CDF or an authorized lead agency, and
2. The Executive Officer has determined that the Project is in compliance with an adopted sediment TMDL Action Plan (also known as a TMDL Implementation Plan).
3. The Executive Officer has determined that the Project is in compliance with an adopted temperature TMDL Action Plan.

Conditions:

1. The Discharger and Project complies with the general waiver conditions set out in Section III(G).

Categorical Waiver D: Modified Timber Harvest Plan Projects

In the case of Modified Timber Harvest Plan Projects, the following eligibility criteria and condition apply:

Eligibility Criteria:

1. Projects that are defined as a Modified Timber Harvest Plan pursuant to the FPRs.

2. The Project has been approved by CDF.

Conditions:

The Discharger and Project complies with the general waiver conditions set out in Section III(G).

Categorical Waiver E: Nonindustrial Timber Management Plan

In the case of Nonindustrial Timber Management Plan Projects, the following eligibility criteria and conditions apply:

Eligibility Criteria:

1. Project is a Nonindustrial Timber Management Plan (NTMP) under the FPRs.
2. The Project has been approved by CDF
3. No Non-Concurrence has been filed with CDF by Regional Water Board staff which was not resolved prior to Project approval.

Conditions:

1. The Discharger and Project complies with the general waiver conditions set out in Section III(G).
2. Dischargers shall incorporate into the approved NTMP or submit with each Notice of Timber Operations (NTO) an Erosion Control Plan as follows:

Erosion Control Plan

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

- a. Contents of an ECP
 - i. An inventory of all controllable sediment discharge sources within the NTMP or NTO area, and
 - ii. A time schedule with each NTO for implementation of prevention and minimization management measures to address the inventoried controllable sediment discharge sources, and

b. Inventory and Treatment of Controllable Sediment Sources

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

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

c. Implementation Schedule

Each NTO shall develop an area-wide (i.e. the NTO area) time schedule for implementation of prevention and minimization management measures will be used to guide corrective actions. Prevention and minimization management measures shall be of demonstrated effectiveness and applicability for the specific sediment discharge sources in the NTO area to achieve compliance with applicable water quality requirements. The time schedule must be during the time an individual NTO is active, and provide for timely implementation to prevent and minimize sediment discharge sites in the order of priority, unless an alternative time schedule is agreed to in writing by the Executive Officer. The time schedule will include:

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

Categorical Waiver F: Other Projects (Timber Harvest Plans)

In the case of Other Projects, the following eligibility criteria and conditions apply:

Eligibility Criteria

1. The Project has been approved by CDF or an authorized lead agency.
2. Ground based heavy equipment operations on slopes greater than 50% are prohibited unless the Project contains a Sediment Prevention Plan.
3. No construction of new skid trails on slopes over 40% within 200 feet of a watercourse unless the Project contains a Sediment Prevention Plan.

4. Timber harvest activities on all slides and unstable areas must retain at least 50% evenly distributed total overstory and understory canopy with a higher canopy retention standard at the toe of the feature. Timber harvest activities on these features shall be accompanied by a geologic report prepared by a licensed California Certified Engineering Geologist or Registered Geologist. The report shall, at a minimum, be prepared in conformance with California Geologic Survey Note 45. The geologic report shall address the degree to which proposed Project activities on slides or unstable areas increases the risk of sediment delivery to watercourses, identifies current condition of downslope waters, estimates the amount of sediment that could be delivered from the slides or unstable areas from Project activities, and identifies and incorporates into the Project recommendations for preventing and minimizing the discharge of sediment from these sites.
5. New road construction is limited to 1000 linear feet, unless explained and justified in a Sediment Prevention Plan. All watercourse crossing construction and reconstruction shall occur under a California Department of Fish and Game Streambed Alteration Agreement (Permit) where required by DFG.
6. No heavy equipment use within a watercourse or lake protection zone (WLPZ) or equipment limitation zone of a watercourse, except for use and maintenance of existing permanent roads, use of existing bridges and culverts as skid trail crossings and maintenance of associated drainage facilities or structures. Upgrading of roads to permanent standards by rocking, paving or other suitable surfacing materials to establish a stable operating surface prior to the start of hauling operations is allowed. If ground based yarding equipment or other heavy equipment is proposed for use in these areas, the Project shall contain a Sediment Prevention Plan.
7. No hauling on roads within a WLPZ except on existing permanent roads or on existing seasonal roads unless the Project contains a Sediment Prevention Plan.
8. Post harvest stocking within the Project area shall comply with the uneven aged stocking requirements of the FPR or in the case of even-aged harvesting methods shall maintain a canopy closure of at least 75% comprised of commercial species at least 30 feet in height.
9. Within a WLPZ for Class I waters, at least 85 percent overstory canopy shall be retained within 75 feet of the watercourse or lake transition line, and at least 65 percent overstory canopy within the remainder of the WLPZ. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.
10. When timber harvest activities are proposed within a WLPZ for Class II waters in watersheds that are either 303 (d) listed as temperature impaired or are located within a watershed with threatened and impaired values, at least 70 percent overstory canopy shall be retained. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.
11. No log hauling, ground based yarding, road construction, road reconstruction, or road rocking during the winter period (November 15 to April 1). This measure does not apply to erosion control maintenance of existing roads and watercourse crossings, timber falling, or use of cable or helicopter yarding methods.
12. With the exception of non-mechanized timber falling, fuels treatment such as hand piling and burning, hand fire line construction, or other activities which do not involve the use of heavy equipment or timber hauling, no timber harvest activities during measurable rain events (defined as greater than ¼" in a 24-hour period). This measure does not apply to maintenance of existing roads and watercourse crossings.

13. No timber harvest activities within the channel zone of a Class III watercourse, except for use and maintenance of roads and crossings.
14. No Non-Concurrence has been filed with CDF by Regional Water Board staff which was not resolved prior to Project approval.

Conditions:

1. Recommendations and mitigation measures proposed by Regional Board staff during the Project review and approval process are incorporated into the approved Project document.
2. Sediment Prevention Plans, where applicable, shall incorporate Regional Water Board staff recommendations generated as part of the Project review and approval process that were designed to prevent and minimize discharge of waste.
3. The Discharger and Project complies with the general waiver conditions set out in Section III(G).

G. General Waiver Conditions:

In order to obtain and maintain coverage under Sections III(A) - (F) above, the Discharger shall comply with the following conditions:

1. The Discharger shall file the documents set out in Section II, as appropriate.
2. The Discharger shall comply with all applicable water quality requirements 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.
3. The Discharger shall conduct timber harvest activities in accordance with the approved or accepted Project.
4. The Discharger shall not cause or threaten to cause pollution, contamination, or nuisance, as defined by CWC Section 13050.
5. The Discharger shall not adversely impact human health or the environment, or the beneficial uses of water set out in the Basin Plan.
6. The Discharger and Project shall comply with applicable local, state or federal laws and regulations.
7. The Discharger shall comply with a monitoring program when directed in writing by the Executive Officer.
8. Any Project seeking coverage under this Order shall be in compliance with CEQA prior to the Executive Officer issuing, authorizing or otherwise approving coverage under this Order.
9. The Discharger shall allow Regional Water Board staff entry onto the affected property, with reasonable notice, for the purposes of observing, inspecting, photographing, video taping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with this Order. If entry is unreasonably withheld, the Executive Officer may terminate the applicability of the Order pursuant to section V.
10. For those Projects where application of pesticides is proposed or being considered, before or after the Project is approved, the Discharger shall notify the Regional Board in writing at least 45 days prior to any proposed aerial application of pesticides and 30

days for any proposed ground-based application of pesticides. The notification shall include the type of pesticide(s), method and area of application, projected date of application, and measures that will be employed to assure compliance with applicable water quality requirements. This Order does not itself authorize the application or discharge of pesticides.

11. For an approved Nonindustrial Timber Management Plan, written notification indicating the commencement of timber harvest activities shall be submitted to the Regional Board at least five (5) days prior to commencement of timber harvest activities.

H. Amendments

All approved amendments shall conform to the Eligibility Criteria and Conditions set forth for the originally waived Project. Failure to do so shall result in a termination of Project waiver coverage and the Discharger shall seek Project coverage under an individual waiver, general WDRs, or individual WDRs.

SECTION IV: WAIVER OF REPORTS OF WASTE DISCHARGE AND WASTE DISCHARGE REQUIREMENTS FOR PROJECTS PREVIOUSLY WAIVED UNDER ORDER NO. R1-2003-0116

Projects that were previously waived under Order No. R1-2003-0116 can be covered under this Order. Such Projects must have been previously waived under Order No. R1-2003-0116, are not the subject of an unresolved water quality issue or non-concurrence filed by the Regional Water Board staff, must meet one of the following eligibility criteria, and must comply with the applicable conditions, as specified below, except for the requirement to submit a Certification Notice for new Projects under section II.A.

Categorical Waiver A: Fire Safe Projects

In the case of FireSafe Projects previously waived under Order R1-2003-0116, the following eligibility criterion and condition apply:

Eligibility Criterion:

1. Projects within 150 feet of existing structures (i.e., "FireSafe" treatments) that are conducted pursuant to a Notice of Exemption accepted by CDF under 14 CCR Section 1038(c) or subsequent fuel treatment exemptions adopted by the Board of Forestry and Fire Protection.

Conditions:

1. The Discharger and Project complies with the general waiver conditions set out in Section III(G).

Categorical Waiver B: Emergencies and Exemptions Projects

In the case of Emergency and Exemption Projects previously waived under Order R1-2003-0116, the following eligibility criteria and condition apply:

Eligibility Criteria:

1. Projects that are defined as an Emergency or an Exemption pursuant to the FPRs.
2. The Project has been accepted by CDF.

Conditions:

1. The Discharger and Project complies with the general waiver conditions set out in Section III(G).

Categorical Waivers D and E: Modified Timber Harvest Plan Projects and Nonindustrial Timber Management Plan Projects

In the case of Modified Timber Harvest Plan Projects and Nonindustrial Timber Management Plan Projects previously waived under Order R1-2003-0116, the following eligibility criteria and condition apply:

Eligibility Criteria:

1. Project is defined as a Nonindustrial Timber Management Plan or a Modified Timber Harvest Plan pursuant to the FPRs.
2. The Project has been approved by CDF.
3. No Non-Concurrence has been filed with CDF by Regional Water Board staff which was not resolved prior to Project approval.

Conditions:

1. The Discharger and Project complies with the general waiver conditions set out in Section III(G).

Categorical Waiver F: Other Projects (Timber Harvest Plans)

In the case of Other Projects (Timber Harvest Plans) previously waived under Order R1-2003-0116, the following eligibility criteria and condition apply:

Eligibility Criteria:

1. The Project has been approved by CDF or an authorized lead agency.
2. No Non-Concurrence has been filed with CDF by Regional Water Board staff which was not resolved prior to Project approval.

Conditions:

1. The Discharger and Project complies with the general waiver conditions set out in Section III(G).

SECTION V: TERMINATION OF COVERAGE

- A. The Executive Officer shall rescind the applicability of a categorical waiver to a specific Project if the Executive Officer makes any of the following determinations:
 1. The Project does not comply with the eligibility criteria for the waiver;
 2. The Project is not in compliance with the applicable conditions of the waiver;
 3. The Project is reasonably likely to result or has resulted in a violation or exceedence of any water quality requirements;
 4. The Project has varied in whole or in any part from the approved Project in any way that could adversely affect water quality;
 5. Where conditions unique to the watershed or watershed segment (including, but not limited to, cumulative impacts, special hydrographic characteristics, Total Maximum Daily Load standards, the extent of timber harvest activities, intensity of ground disturbing activities, large acreage ownership holdings or management plans, rainfall, slopes, soil, effected domestic water supplies, an increased risk of flooding, or proximity to local, State, or National Parks) warrant further regulation.
 6. Where past land use activities unique to the watershed or watershed segment resulted in the discharge of human generated sediment in amounts which warrant further regulation.
 7. When requested by another state agency, a subdivision of the state (county) or a federal agency, and with concurrence by the Executive Officer.
- B. Upon receipt of a rescission notice of a categorical waiver, the Discharger shall immediately cease all timber harvest activities that may result in discharges of Waste to waters of the state, other than activities necessary to control erosion. Upon notice of termination, the Discharger must apply for coverage under general waste discharge requirements or file a Report of Waste Discharge and applicable filing fee. Timber harvest activities that may result in discharges that could affect the quality of waters of the state may commence only upon enrollment by the Executive Officer under general or watershed waste discharge requirements, the adoption by the Regional Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with CWC Section 13264(a).
- C. The applicability of this Order to a specific Project is immediately terminated on the receipt of a notice of termination of applicability or on the effective date of either a categorical waiver of WDRs, an individual waiver of WDRs, individual WDRs, general or watershed WDRs or a NPDES permit that covers or permits the specific Project.
- D. The Discharger may terminate coverage under a categorical waiver for a completed Project by submitting, forthwith upon completion of the Project, to the Regional Board a final certification signed by the landowner certifying that: (1) the Project was conducted in conformance with the approved or accepted Project and with all applicable provisions of this

Order, and (2) discharges resulting from the Project were in compliance or are expected to comply with all requirements of applicable water quality requirements.

- E. Notwithstanding any other provision of this Order, the burden is on the Discharger to demonstrate that each finding required for coverage under this waiver can be made, and that each and every term, eligibility criteria and condition has been met. Notwithstanding any other provision of this Order, no waiver coverage shall be valid unless each and every term, eligibility criteria and condition is met.
- F. Where waste discharge requirements have been issued by the Regional or State Water Resources Control Board and have not expired, a waiver of that discharge shall not be obtained without a decision by the Regional Board following a public hearing. Thus the Waiver cannot be used to modify any existing order of the Regional Board during the life of the permit.
- G. The provisions of this Order are severable; and, if any provision of this Order or the application of any provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.
- H. Order No. R1-2004-0016 shall expire five years from the adoption date.

Certification:

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

Catherine Kuhlman
Executive Officer