

California Environmental Quality Act (CEQA)

Addendum

to the

Mitigated Negative Declaration (SCH No. 2018012054)

for

Categorical Waiver of Waste Discharge Requirements for Timber Harvest Activities on
Non-Federal Lands in the North Coast Region

now titled

General Waste Discharge Requirements for Discharges Related to Specific Types of
Forest Management Activities on Non-Federal Lands in the North Coast Region

Considered at February 8-9, 2024, Regional Water Board Meeting

Prepared by:

California Regional Water Quality Control Board, North Coast Region
5550 Skylane Blvd.
Santa Rosa, CA
95403

Staff Contact:

James Burke
707-576-2289

James.Burke@waterboards.ca.gov

A. Introduction

The North Coast Regional Water Quality Control Board (Regional Water Board) has prepared this addendum pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Code, section 21000 et seq.) as lead agency under CEQA for Order No. R1-2024-0001, *General Waste Discharge Requirements for Discharges Related to Specific Types of Forest Management Activities on Non-Federal Lands in the North Coast Region* (Proposed Order). The Proposed Order regulates specified categories of forest management activities on non-federal lands by requiring project proponents to comply with specific criteria and conditions to protect water quality. Projects that are not eligible for enrollment under the Proposed Order must seek coverage under an existing permit or seek individual permitting.

In 2004, the Regional Water Board prepared an Initial Study and adopted a Negative Declaration for Order No. R1-2004-0016, *Categorical Waiver for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region*, and concluded the project would not result in significant adverse environmental impacts. In 2009, the Regional Water Board prepared a supplemental Initial Study and adopted a Mitigated Negative Declaration (MND) that evaluated revisions to Order No. R1-2004-0016 and concluded the revised waiver, Order No. R1-2009-0038, would similarly not result in significant adverse environmental impacts. Subsequently, the Regional Water Board adopted Order No. R1-2014-0011, renewed by Order No. R1-2019-0008, which carried over the substantive provisions of the 2009 waiver and made only minor revisions, including reorganizing for clarity and usability. This addendum refers to these previous permit iterations as the “Categorical Waiver” throughout.

The Proposed Order proposes minor modifications to the Categorical Waiver, which are detailed below. This addendum, prepared pursuant to CEQA Guidelines section 15164, details how the Proposed Order differs from the Categorical Waiver and makes the following conclusions: The previous environmental documents prepared for the Categorical Waiver retain informational value for the Regional Water Board’s consideration of the Proposed Order. Additionally, none of the conditions under CEQA Guidelines section 15162, subdivision (a), exist that would require the Regional Water Board to prepare a subsequent or supplemental environmental document for the Proposed Order.

B. Minor Modifications to the Categorical Waiver

Besides revised findings, minor reorganization, and edits to improve clarity, minor modifications to the Categorical Waiver are as follows:

- 1. Proposed Order Will Convert Categorical Waiver of Waste Discharge Requirements for Timber Harvest Activities on Non-Federal Lands in the North Coast Region to General Waste Discharge Requirements**

The existing vehicle for regulation of timber harvest activities on non-federal lands is the Categorical Waiver, issued under Water Code section 13269. The waiver expires by its own terms in April 2024. Rather than renew the Categorical Waiver for another five-year term, the Regional Water Board proposes to impose requirements on the timber harvest activities through general waste discharge requirements, issued under Water Code section 13263. Like the existing Categorical Waiver, the general waste discharge requirements would require dischargers to comply with specific criteria and conditions to protect water quality. Waste discharge requirements do not have expiration dates; however, the Regional Water Board may review and revise requirements at any time and all requirements shall be reviewed periodically. (Wat. Code, § 13263, subd. (e).)

2. Proposed Order Will Remove Enrollment Eligibility for Standard Timber Harvest Plans and Corresponding Specific Conditions

The Proposed Order would make the former Category F, Category E. Category E was previously eliminated from the Categorical Waiver as Non-Industrial Timber Management Plans under this category have been regulated through a different permit since 2013. Additionally, the new Category E would remove enrollment eligibility for standard Timber Harvest Plans (THPs) and their corresponding specific conditions. Currently, this category of enrollments is underutilized for THPs and unnecessary given other existing permits. Standard THPs will continue to be enrolled under *General Waste Discharge Requirements for Discharges Related to Timber Activities on Non-Federal Lands in the North Coast Region*, Order No. R1-2004-0030, which, similar to the Categorical Waiver, requires that THPs comply with applicable water quality requirements. The Eligibility Requirement in the new Category E is now written as follows:

“Any other forest management Project that Regional Water Board staff have determined is in compliance with CEQA and implements management practices designed to protect water quality. Timber Harvesting Plans as described in 14CCR 1032 are not eligible for coverage under Category E.”

Seven of the eleven Specific Conditions of the Category F of the Categorical Waiver have been eliminated from the GWDR Category E, as these conditions were specifically targeted towards timber operations conducted under timber harvest plans. The remaining four Specific Requirements are well suited to forest management projects that would be eligible for coverage under Category E and include the following:

- Identification and treatment for sites that have the potential to adversely impact beneficial uses of water;
- Restrictions of specific operations between November 15 and April 1;
- Restrictions on use of heavy equipment or log hauling during saturated soil conditions; and
- A requirement that roads in the project area be hydrologically disconnected from watercourses to the extent feasible and practicable.

3. Proposed Order Clarifies Coverage for Broadened Category of Exemptions under Forest Practice Rules Section 1038

The Proposed Order would clarify the full scope of exemptions covered under Category A. The existing Category A includes timber operations that are exempt from THP preparation and submission requirements—a process functionally equivalent to an Environmental Impact Report (EIR)—under California Code of Regulations, title 14, section 1038. The Categorical Waiver findings list exemption categories but do not expressly include exemption categories that have been added to the Forest Practice Rules, including the Forest Fire Prevention Exemption under section 1038.3. These additional exemption categories would be expressly incorporated in the Proposed Order.

4. Proposed Order Clarifies Monitoring Requirements

The Proposed Order would require all projects to conduct monitoring inspections, consistent with California Code of Regulations, title 14, section 1050, when access is feasible during the prescribed maintenance period. Monitoring shall be conducted a sufficient number of times during the extended wet weather period, particularly after large winter storm events and at least once annually, to evaluate the function of drainage facilities and structures. While this monitoring was previously only expressly required for Category F projects under the Categorical Waiver, the Categorical Waiver findings also noted that “monitoring of the effectiveness of the measures to identify and correct sites where such management measures are not functioning as intended” is required. The monitoring inspection requirement within the Proposed Order helps clarify monitoring obligations, consistent with section 1050 and the Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy).

5. Proposed Order Clarifies that Project Enrollment Continues through the Erosion Control Maintenance Period

The Proposed Order clarifies that all categories of projects remain covered through the erosion control maintenance period, unless enrollment is terminated or rescinded for other specified reasons. The Categorical Waiver had explicitly stated this for Categories C, D, and F (now E).

C. Regional Water Board’s CEQA Obligations as Lead Agency for Proposed Order

In general, CEQA applies whenever a public agency proposes to carry out or approve a discretionary project. (Pub. Res. Code, § 21080, subd. (a).) Where a public agency must make a further discretionary decision to carry out or approve a project for which it has previously issued an approval, it must determine whether to rely on the existing environmental document for the project or prepare a subsequent or supplemental negative declaration or environmental impact report. No further documentation is required except when one of the following triggering conditions exist:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

(Cal. Code Regs., tit. 14, § 15162, subd. (a).) “These limitations are designed to balance CEQA’s central purpose of promoting consideration of the environmental consequences of public decisions with interests in finality and efficiency.” (*Friends of San Mateo v. San Mateo County Community College Dist.* (Cal. 2016) 1 Cal. 5th 937, 949.) “[N]egative declarations, no less than EIRs, are entitled to a presumption of finality once adopted.” (*Id.*, at 956.)

If some minor changes or additions are necessary but none of the conditions described in CEQA Guidelines section 15162, subdivision (a), exist, then the agency may prepare an addendum to a negative declaration. (Cal. Code Regs., tit. 14, § 15164, subd. (b).) The agency may use an addendum to evaluate project changes, changes in

circumstances, or new information and explain the decision not to prepare a subsequent or supplemental document. (*Id.*, § 15164, subd. (e).)

D. Consideration of Informational Value of Previous Environmental Documentation

In considering whether subsequent or supplemental review is required, the agency must initially determine whether the previous environmental document retains informational value despite any change in information. (*Friends of San Mateo, supra*, 1 Cal. 5th at 951-952.) “If the original environmental document retains some informational value despite the proposed changes, then the agency proceeds to decide under CEQA’s subsequent review provisions whether project changes will require major revisions to the original environmental document because of the involvement of new, previously unconsidered significant environmental effects.” (*Id.*, at 952.)

The environmental documentation for the Categorical Waiver retains informational value for the Regional Water Board’s consideration of the Proposed Order. The previous environmental documentation analyzed and disclosed the potential effects of the Categorical Waiver, as well as minimization measures to ensure no significant effects. The Proposed Order is the same project as the Categorical Waiver, except for minor modifications described above and discussed below; thus, the existing documentation remains relevant.

E. Consideration of CEQA Guidelines Section 15162(a) Conditions

1. CEQA Guidelines, section 15162, subdivision (a)(1), conditions do not exist.

No substantial changes to the Categorical Waiver are proposed that require major revisions to the environmental documentation due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects. (Cal. Code Regs., tit. 14, § 15162(a)(1).) The previous environmental documentation concluded that the Categorical Waiver would not have a significant effect on the environment. The Categorical Waiver and Proposed Order do not substantially differ.

As discussed above, the Proposed Order would (1) convert the regulatory mechanism from a conditional waiver to waste discharge requirements with the same criteria and conditions; (2) remove enrollment eligibility and corresponding specific conditions for THPs, which have been and will continue to be enrolled under the GWDRs; (3) clarify the class of exemptions under Category A; (4) require additional monitoring inspections to ensure management measures are adequately performing and determine whether additional measures are necessary, and (5) clarify continued enrollment of projects through the erosion maintenance period for all categories. Additionally, the Proposed Order includes revised findings, minor reorganization, and edits to improve clarity.

These changes are minor, not substantial. Further, these minor changes would not result in new significant impacts or a substantial increase in the severity of previously

identified impacts. Some of the changes, such as changing the permitting mechanism and removing enrollment categories that are similarly regulated under an existing permit, are procedural. Others, such as clarifying monitoring requirements and the duration of project enrollment, are consistent with existing Forest Practice Rules and Nonpoint Source Policy requirements and would serve to lessen any impacts to water quality. Finally, the addition of specified exemption activities under Category A, which are exempt from the requirement to prepare EIR-equivalent THPs, serves to clarify existing enrollment coverage, consistent with the Forest Practice Rules. Accordingly, the minor changes within the Proposed Order do not necessitate subsequent or supplemental environmental review.

2. CEQA Guidelines, section 15162, subdivision (a)(2), and subdivision (a)(3), conditions do not exist.

No substantial changes have occurred with respect to the circumstances under which the Proposed Order would be undertaken that require major revisions to the existing environmental documentation due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects. (Cal. Code Regs., tit. 14, § 15162(a)(2).) Additionally, no new information has become available that was not known and could not have been known at the time the existing environmental documentation was adopted that shows the project would do any of the following:

- Have new significant environmental effects;
- Substantially increase the severity of previously identified significant effects (the MND concluded that the Categorical Waiver would not cause any significant effect on the environment);
- Show that mitigation measures or alternatives previously found to not be feasible are in fact feasible; or
- Show that mitigation measures or alternatives not previously adopted would, if adopted, substantially reduce one or more significant effects.

(Cal. Code Regs., tit. 14, § 15162(a)(3).) Accordingly, given the lack of changed circumstances or new information in the record, subsequent or supplemental environmental review is not necessitated under these provisions.

E. Conclusion

The environmental documentation for the Categorical Waiver retains informational value for the Regional Water Board's consideration of the Proposed Order. None of the CEQA Guidelines section 15162, subdivision (a), conditions that would require subsequent or supplemental review exist.