

North Coast Regional Water Quality Control Board

Order No. R1-2019-0008

Short-Term Renewal of Order No. R1-2014-0011

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 Water Board) finds that:

1. The Regional Water Board issues permits for timber harvesting projects approved by the California Department of Forestry and Fire Protection. Waste Discharge Requirements (WDRs) and Waiver of WDRs (Waiver) establish conditions and requirements to control discharges of waste to waters of the state in compliance with the Water Quality Control Plan for the North Coast Region (Basin Plan) and Porter-Cologne Water Quality Control Act. Prior to commencing timber harvesting operations on an approved timber harvesting project, dischargers must obtain permit coverage under WDRs or Waivers.
2. On May 8, 2014, the Regional Water Board adopted Order No. R1-2014-0011, *Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities On Non-Federal Lands in the North Coast Region* (2014 Categorical Waiver). The 2014 Categorical Waiver is scheduled to expire on May 8, 2019. The 2014 Categorical Waiver applies to five categories of timber harvesting activities as defined in the Forest Practice Rules (Cal. Code Regs., tit. 14, §§895-1115.3) and establishes general and specific conditions and eligibility criteria for each category for which WDRs can be waived.
3. The intent of this short-term renewal is to allow continued use of the 2014 Categorical Waiver while providing Regional Water Board staff additional time to evaluate the current eligibility criteria and specific conditions, and to consider several new and ongoing developments within the North Coast Region and statewide that may warrant modifications to the 2014 Categorical Waiver. Important developments that may require additional modifications to the 2014 Categorical Waiver include: former California Governor Brown's issuance of Executive Order on Forests (Executive Order B-52-18) which seeks to increase the pace and scale of prescribed fire, fuel reduction and forest thinning to improve forest resilience; California Governor Newsom's Executive Order (Executive Order N-05-19) which further focuses the state's efforts on wildfire prevention and community protections; large-scale wildfires that are increasing the number of post-fire salvage projects; and, the creation of new or modification of existing timber harvesting projects as a result of new statutory or regulatory requirements pursuant to Senate Bill 901.

4. Senate Bill 901 (SB 901), approved by former California Governor Brown on September 21, 2018, requires extensive revisions to the Forest Practice Rules (FPRs). SB 901 requires revisions to certain exemptions from FPRs requirements to prepare timber harvesting plans. SB 901 creates two new exemption types: the Small Timberland Owner Exemption and the Forest Fire Prevention Exemption. In addition to these new exemptions, SB 901 requires revisions to Nonindustrial Timber Management Plans and Working Forest Management Plans, and creates new processes for vegetation management along utility corridors. The California Board of Forestry and Fire Protection (Board of Forestry) is currently working on revisions to the FPRs as required by SB 901. Regional Water Board staff will consider any revisions to the FPRs approved by the Board of Forestry prior to proposing a revised Waiver or WDRs for the Regional Water Board's consideration. Accordingly, a short-term renewal of the 2014 Categorical Waiver allows Regional Water Board staff adequate time to determine the water quality implications of SB 901 and how FPRs revisions inform possible revisions to the 2014 Categorical Waiver.
5. Regional Water Board staff are currently developing a workplan to inspect and evaluate a sample population of recent post-fire salvage projects conducted under the rules for Emergency Notices pursuant to FPRs. Post-fire salvage projects conducted pursuant to an Emergency Notice are automatically enrolled and covered under Categorical Waiver A of the 2014 Categorical Waiver. The objectives of this workplan are to systematically collect observations of the effectiveness of management practices implemented on recently completed post-fire salvage projects, and to evaluate the current permitting process and whether revisions to the 2014 Categorical Waiver are warranted to ensure post-fire salvage projects comply with the Basin Plan. A short-term renewal of the 2014 Categorical Waiver will provide Regional Water Board staff the additional time needed to implement the workplan, evaluate findings, and propose revisions to the 2014 Categorical Waiver.
6. A short-term renewal of the 2014 Categorical Waiver is necessary and appropriate to maintain permit coverage on existing and new eligible timber harvesting projects and to allow additional time for Regional Water Board staff to update the forest activities regulatory program pursuant to Finding Nos. 4 and 5 above for the Regional Water Board's consideration. A renewal of the 2014 Categorical Waiver retains all of its provisions, which includes terms and conditions to protect water quality. In the interim, the Regional Water Board retains all its authorities under the California Water Code to address discharges of waste to waters of the state from timber harvesting projects, including enforcement actions, requesting reports of waste discharge for individual sites, and authority to deny or terminate coverage under the 2014 Categorical Waiver, as appropriate. For these reasons, a short-term renewal of the 2014 Categorical Waiver is in the public interest and consistent with the Basin Plan.

7. In accordance with the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.) (CEQA), the adoption of this Categorical Waiver is a “project” and the Regional Water Board is the lead agency responsible for approving the project. The Regional Water Board conducted a CEQA analysis and adopted a mitigated negative declaration that accompanied Order R1-2009-0038 in 2009 (State Clearinghouse No. 2009042053). Compliance with this Order does not result in any significant physical changes in the environment, or imposition of mitigation measures considerably different from what was described and analyzed in the mitigated negative declaration prepared in 2009. As such, this Order is consistent with the prior CEQA documentation as no new impacts that were not previously analyzed are expected to occur. The Regional Water Board will file a notice of determination in accordance with title 14, California Code of Regulations, section 15075 within five (5) days of the adoption of this Order.
8. The Regional Water Board has notified interested parties of its intent to provide a short-term renewal of Order No. R1-2014-0011 until adoption of a revised Waiver or WDRs. The Regional Water Board, in a public meeting on April 18, 2019, heard and considered comments pertaining to this renewal.

IT IS HEREBY ORDERED, that Order No. R1-2014-0011, *Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities On Non-Federal Lands in the North Coast Region* is renewed to continue coverage of specific timber harvesting activities in the interim while a replacement Waiver or WDRs are developed and adopted.

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 Regional Water Quality Control Board, North Coast Region, on April 18, 2019.

Matthias St. John
Executive Officer