

California Regional Water Quality Control Board  
North Coast Region

ORDER NO. R1-2004-0030

General 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 renewed every five years.
6. 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 (WDRs).
7. 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.
8. 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.

9. This Order rescinds the remaining portions of the prior Regional Board Order: "Interim Categorical Waiver for Discharges Related to Timber Operations in the North Coast Region," Order No. R1-2003-0116.
10. The US Environmental Protection Agency and State Water Resources Control Board must certify that the California Forest Practice Rules are Best Management Practices for timber operations on non-federal lands, at which time 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.
11. 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.
12. These General Waste Discharge Requirements shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC 13263.
13. 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.
14. The Regional Board Executive Officer (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 general WDRs contained herein would be better regulated under individual waivers, other general WDRs, watershed WDRs, ownership WDRs, or individual WDRs.
16. General WDRs 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. Discharges from timber harvest activities are produced by similar operations, involve similar types of waste, and require similar treatment standards. Therefore, some of these discharges are appropriately regulated under general WDRs rather than individual WDRs.
18. 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. Aquaculture (AQUA)
  - m. Warm Freshwater Habitat (WARM)
  - n. Cold Freshwater Habitat (COLD)
  - o. Estuarine Habitat (EST)
  - p. Marine Habitat (MAR)
  - q. Wildlife habitat (WILD)
  - r. Preservation of Areas of Special Biological Significance (BIOL)
  - s. Rare, Threatened, or Endangered Species (RARE)
  - t. Migration of Aquatic Organisms (MIGR)
  - u. Spawning, Reproduction, and/or Early Development (SPWN)
  - v. Shellfish Harvesting (SHELL)
19. The Basin Plan contains water quality objectives, prohibitions and policies 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 and policies. Prohibitions, provisions, policies, and other specifications contained in this Order implement the Basin Plan and the Porter-Cologne Water Quality Control Act. Compliance with applicable water quality objectives, prohibitions, and policies will protect the beneficial uses listed in Finding 18 above.
20. As provided by CWC Section 13350(a), any person may be liable for civil penalties if that person in violation of a waiver condition or waste discharge requirements, 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.

21. 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 TMDLs, waste discharge requirements must be established to control pollutants of concern in discharges to 303(d) listed waters. Discharges cannot cause or contribute to water quality or beneficial use impairment.
22. This Order is intended to apply to new discharges from timber harvest activities that are not eligible for a waiver and are not otherwise required to obtain individual coverage.
23. 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."
24. 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.
25. Timber harvesting activities covered under these Waste Discharge Requirements must, as a precondition, have achieved compliance with CEQA 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.
26. 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.
27. Consistent with the CEQA Guidelines' Class 7 Exemption, these General WDRs are 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, these General WDRs are 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.)

28. 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 these WDRs will result in significant environmental effects
29. 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 adoption of these general waste discharge requirements for timber harvest operations pursuant to Order No. R1-2004-0030 will not have a significant impact on the environment.
30. 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.
31. The Regional Board conducted a public hearing 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, General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities On Non-Federal Lands in the North Coast Region.
32. The Regional Board, based on the testimony received at the aforementioned hearing, and the Negative Declaration determine that the adoption of these General WDRs for timber harvest activities in accordance with Order No. R1-2004-0030 will be consistent with the Basin Plan, Porter-Cologne Water Quality Control Act, federal and state law, will be in the public interest, and will not have a significant impact on the environment.
33. 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.
34. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the proposed discharge.

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 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 applicable 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 applicable water quality requirements or other conditions of this Order. The Erosion Control Plan (ECP) shall be developed by a qualified professional, included in the approved Project or submitted with the application when seeking coverage under these General WDRs, and 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 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 treatment of 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. "Petroleum" means crude oil or any fraction which is liquid at 60 degrees Fahrenheit temperature at normal atmospheric pressure. This includes petroleum based substances comprised of a complex blend of hydrocarbons, such as gasoline, diesel, jet fuels, residual fuel oils, lubricants, some petroleum solvents, and used oils. Petroleum does not include liquid propane gas (LPG).

- G. "Prevention" means the Project has been designed to prevent the discharge or threatened discharge of sediment waste through the use of all feasible and reasonable project design, timing and sediment control practices.
- H. "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.
- I. "Qualified professional" means a person with the appropriate training and/or licensing to prepare 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 Specialist, Registered Professional Foresters, Registered Geologists, Certified Engineering Geologists, and Professional Civil Engineers.
- 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 these WDRs. Examples of wastes not specifically regulated under these General WDRs 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, the 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 Rules as of June 1, 2004, and the Porter-Cologne Water Quality Control Act.

## **SECTION II: STRUCTURE OF ORDER AND APPLICATION PROCEDURES**

This section briefly explains the structure of this Order and application procedures.

### **A. Order Structure**

This Order sets out general WDRs for timber harvest activities conducted on non-federal lands in the North Coast Region. These General WDRs are for Projects that do not qualify for the waiver of waste discharge requirements under Order R1-2004-0016 (Categorical Waiver). Projects that do not qualify, or are denied coverage, under these General WDRs, are required to submit a report of waste discharge for individual WDRs.

These General WDRs set out water quality requirements, specific provisions, required technical reports, and reporting requirements, general conditions and provisions, and termination and denial of coverage. These General WDRs prohibit the discharge of waste to waters of the state in violation of applicable water quality requirements or other provisions of these General WDRs and require the submission of technical reports developed to identify discharge sources and the appropriate management measure(s) to address each source and to set out a time schedule to implement those management measures. Dischargers seeking coverage under these General WDRs must submit an application and a filing fee. An annual fee is required while a Project is covered under these General WDRs.

### **B. Application Procedures**

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

1. To seek coverage under these General WDRs, the Discharger shall file an application and filing fee. The application shall consist of (1) a letter requesting coverage under these General WDRs, or a Report of Waste Discharge Form 200 or equivalent document, (2) the approved or accepted Project document when directed by the Executive Officer, (3) the required technical reports (see section III.C.), which may be accepted as clearly delineated sections in the approved Project document, and (4) a filing fee in accordance with the attached fee schedule (Attachment 1). The application shall comply with the signatory requirements contained in section IV.S.
2. Coverage under these General WDRs shall not take effect until: (1) the Discharger's application is determined to be complete; and (2) the Discharger has received written notification from the Executive Officer or the Regional Board stating that coverage under these General WDRs is appropriate, or at least 90 days have passed since CDF's



approval and there is no threat of pollution or nuisance. It is anticipated that Projects which have had thorough Regional Water Board staff involvement in the review and approval process will receive written notification of coverage within ten (10) working days of receipt of a complete application.

3. For an approved Program Timberland Environmental Impact Report (PTEIR), the proponent of each future Program Timber Harvesting Plan (PTHP) shall seek coverage under this Order for each new PTHP.

### **SECTION III: GENERAL WASTE DISCHARGE REQUIREMENTS FOR PROJECTS ON NON-FEDERAL LANDS**

#### **A. Discharge Prohibitions**

1. Discharges of waste, which are not otherwise authorized by waste discharge requirements issued by this Regional Board or the State Water Resources Control Board, to waters of the state are prohibited, except as allowed in section III.A.5.
2. Discharges shall not cause or threaten to cause pollution, contamination, or nuisance.
3. Discharges shall not adversely impact human health or the environment or the beneficial uses of water set out in the Basin Plan.
4. Authorization pursuant to these General WDRs does not constitute an exemption to applicable water quality requirements.
5. Discharges are authorized only where they do not cause or contribute to a violation or exceedance of applicable water quality requirements and are controlled through implementation of appropriate project design and management measures for prevention and minimization of waste discharges.

#### **B. Receiving Water Limitations**

1. Discharges of waste shall not violate or exceed any applicable water quality requirement 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.
2. The technical reports developed for Projects covered by these General WDRs shall be designed and implemented such that discharges shall not cause or contribute to a violation or an exceedance of any applicable water quality requirements and shall not cause or contribute to a violation of any of the prohibitions of these General WDRs.
3. Should it be determined by the Discharger or the Regional Board that discharges are causing or contributing to a violation or an exceedance of an applicable water quality

requirement or a violation of a General WDR prohibition (above), the Discharger shall:

a. Implement corrective measures immediately following discovery that applicable water quality requirements were exceeded or a prohibition violated, followed by notification to the Regional Board by telephone as soon as possible but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report within 14 days to the Regional Board, unless otherwise directed by the Executive Officer, that includes:

1. the date the violation was discovered;
2. the name and title of the person(s) discovering the violation;
3. a map showing the location of the violation site;
4. a description of recent weather conditions prior to discovering the violation;
5. the nature and cause of the water quality requirement violation or exceedence or General WDR prohibition violation;
6. photos of the site characterizing the violation;
7. the management measure(s) currently being implemented;
8. any maintenance or repair of management measures;
9. any additional management measures which will be implemented to prevent or reduce discharges that are causing or contributing to the violation or exceedence of applicable water quality requirements or General WDR prohibition violation; and,
10. The signature and title of the person preparing the report.

This report shall include an implementation schedule for corrective actions and shall describe the actions taken to reduce the discharges causing or contributing to the violation or exceedence of applicable water quality requirements or General WDR prohibition violation.

- b. The Discharger shall revise the appropriate technical report immediately after the report to the Regional Board to incorporate the additional management measures that have been and will be implemented, the implementation schedule, and any additional inspections or monitoring that is needed.
- c. Compliance with the required technical reports and the implementation of required corrective measures shall not prevent the Regional Board from taking enforcement action under any other requirements of this Order.

### C. Specific Provisions

Project sites have the potential to discharge waste for several years while the forest regenerates. Thus, Project planning and erosion prevention or soil stabilization management measures are key components to retain earthen material and other wastes on the Project site. The most efficient ways to address erosion prevention is to limit disturbance, avoid steep or unstable slopes, preserve existing vegetation where feasible,

and to stabilize and re-vegetate exposed areas as soon as possible after land disturbing activities.

To the extent feasible, the Discharger shall design Project features, such as but not limited to, silviculture methods, road alignment, yarding methods, tractor operations and timing of timber harvest activities to prevent waste discharges in amounts that would violate applicable water quality requirements or other provisions of these General WDRs.

The development of the required technical reports will be used as the basis for corrective actions undertaken to control sediment, fuel, and other potential waste discharge sources within the Project area. Designs and corrective actions shall be implemented in the following sequential manner. First, the discharge or threatened discharge of sediment waste shall be prevented through the use of feasible and reasonable adjustments to the project design, scale and rate of disturbance alternatives and sediment control practices. Second, the discharge or threatened discharge of sediment waste that cannot be fully prevented shall be minimized through the use of feasible and reasonable project design alternatives, project timing, and sediment control practices. Project design alternatives, project timing, and control practices shall be designed and implemented to prevent and minimize the discharge of waste to a level that does not violate applicable water quality requirements, and shall be included in the technical reports. If a Project cannot be designed to comply with applicable water quality requirements through prevention and minimization, the Project will be denied coverage under these General WDRs and the Discharger shall submit a Report of Waste Discharge and seek coverage under an individual WDR.

1. Technical Reports

Dischargers shall incorporate the following technical report(s) into the Project as a separate section(s) or submit them with their application when seeking coverage under these General WDRs:

a. Erosion Control Plan

For each Project covered under this Order, an Erosion Control Plan (ECP), as described in section III.D., shall be developed and implemented to prevent and minimize the discharge or threatened discharge of sediment from controllable sediment discharge sources into waters of the state in violate an applicable water quality requirement or other provision of this Order. Sites already covered by formal, existing agreements with the Regional Board design to prevent and minimize discharges do not need to be included in the ECP.

b. Fuel Management Plan

A Fuel Management Plan, as described in section III.E., shall be developed, as applicable, to prevent and minimize the discharge of petroleum products to waters of the state.

2. Other Technical Reports

The Executive Officer may require other technical reports as necessary to determine if the Project warrants coverage under these General WDRs.

3. Inspection Plan and Reporting Program

An Inspection Plan shall be developed to document implementation and effectiveness of management measures used to protect waters of the state for each Project covered by these General WDRs.

If the Executive Officer determines that the Project as described may cause or contribute to a violation of applicable water quality requirements due to for example, including but not limited to, the cumulative impacts of past and planned timber harvest activities, the Discharger will be required to apply for coverage under individual WDRs.

D. Erosion Control Plan

An Erosion Control Plan (ECP) shall be developed and implemented for each Project enrolled under these General WDRs. The ECP shall be developed for the entire Project area, 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 or other earthen material from controllable sediment discharge sources into waters of the state to the degree necessary to avoid a violation of applicable 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 sediment, vehicle and equipment storage and service areas, skid trails, landings, exposed harvest units, or any other location discharging sediment or earthen materials. The ECP shall be amended and revised, when necessary, to meet this standard.

1. Contents of an ECP

- a. An inventory of all controllable sediment discharge sources within the Project area, and,
- b. A time schedule, which must be during coverage under General WDRs, for implementation of prevention and minimization management measures.

2. 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 within the Project area 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 in the Project area 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. Sites already covered by formal, existing agreements with the Regional Board design to prevent and minimize discharges do not need to be included in the ECP, but should be briefly described. The inventory shall include:

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

### 3. Implementation Schedule

The development of a Project-wide time schedule for implementation of prevention and minimization management measures will be used to guide corrective actions for the Project area. Prevention and minimization management measures shall be of demonstrated effectiveness and applicability for the specific sediment discharge sources in the Project area to achieve compliance with applicable water quality requirements. The time schedule must be during the time the Project is covered under General WDRs, and provide for timely implementation to prevent and minimize sediment discharge sites in the order of priority. The time schedule will include:

- a. 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
- b. 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.

## E. Fuel Management Plan

The objectives of a fuel management plan are water quality protection from the use and storage of petroleum products and to assure that all State and Federal regulations pertaining to the handling and storage of fuel are adhered to during logging operations. These regulations include the "California Aboveground Petroleum Storage Act with 1991 Amendments" (Cal. Health & Saf. Code, section 25270 et seq.) and the "U.S. Environmental Protection Agency Regulations on Oil Pollution Prevention" (40 CFR 112)

### 1. Applicability

All Projects that make use of petroleum stored in a single tank greater than 1,320 gallons or facilities storing petroleum in aboveground tanks or containers with a cumulative storage capacity of greater than 1,320 gallons. (Cal. Health & Saf. Code, section 25270.2 (k) of the Aboveground Petroleum Storage Act defines certain tanks not subject to the program).

2. Requirement

The Discharge shall prepare and implement a Spill Prevention Control and Countermeasure (SPCC) plan and a copy of the SPCC plan must be maintained at the facility. The SPCC shall require construction and maintenance of impermeable secondary containment.

F. Inspection Plan and Reporting Requirements

For each Project, Dischargers shall develop and implement an Inspection Plan for evaluating the implementation and effectiveness of the management measures in the Erosion Control Plan or other plans that may be developed to prevent and minimize discharges of waste. Inspections shall also be used to determine if any new controllable sediment discharge sources have developed within the Project area.

1. Inspection Plan

The Inspection Plan shall be designed to ensure that all required management measures are installed and functioning prior to rain events, that the management measures were effective in controlling sediment discharge sources throughout the winter period, and that no new controllable sediment discharge sources developed. The Inspection Plan shall include a narrative discussion of the program to inspect and maintain all identified management measures throughout the duration of the Project. A site map that depicts the inspection locations to be visited before, during, and after the winter period shall be included in the Inspection Plan.

Inspections conducted prior to the winter period shall be designed to assure that management measures are properly installed and maintained; winter period inspections should be designed to assure and assess management measure performance and determine if new controllable sediment discharge sources developed; post-winter period inspections should be designed to assure that the management measures have functioned adequately and whether any new controllable sediment discharge sources have developed. Management measures shall be evaluated for adequacy and proper implementation and whether additional management measures are required in accordance with the terms of this Order.

2. Site Inspections

Qualified professionals shall conduct all specified inspections of the Project site to identify areas causing or contributing to a violation of applicable water quality requirements or other provisions of these General WDRs. The name(s) and contact number(s) of the assigned inspection personnel shall be listed in the Inspection Plan. The following inspection requirements shall begin once the startup of timber harvest activities begin within Project areas.

a. Project Areas where Timber Harvest Activities have not yet Commenced

No inspections are required.

b. Project Areas where Timber Harvest Activities have Commenced and No Winter Period Timber Harvest Activities have Occurred

At a minimum, conduct inspections each year and throughout the duration of the Project while Timber Harvest Activities occur and the Project is covered under General WDRs as follows:

1. By November 15 to assure Project areas are secure for the winter; and
2. Once following ten (10) inches of cumulative rainfall commencing on November 15 and prior to March 1, as worker safety and access allows; and
3. After April 1 and before June 15 to assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new controllable sediment discharges sources have developed.

c. Project Areas With Winter Period Timber Harvest Activities

Project areas with timber harvest activities during the winter period shall, at a minimum, conduct inspections of such Project areas while Timber Harvest Activities occur and the Project is covered under General WDRs as follows:

1. Immediately following the cessation of winter period timber harvest activities to assure areas with winter timber harvest activities are secure for the winter;
2. Once following ten (10) inches of cumulative rainfall commencing on November 15 and prior to March 1, as worker safety and access allows; and
3. After April 1 and before June 15 to assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new controllable sediment discharges sources have developed.

d. Inspection reports prepared pursuant to section III.G. shall identify where management measures have been ineffective and when the Discharger will implement repairs or design changes to correct management measure failures.

e. If any new controllable sediment discharge sources are identified, such sites shall be addressed in accordance with the provisions of section III.B.3.

f. Equipment, materials, and workers shall be available for rapid response to failures and emergencies, and implement, as feasible, emergency management measures depending upon field conditions and worker safety for access.

3. Reporting Requirements

If during any inspection or during the course of conducting timber harvest activities, a violation of an applicable water quality requirement or conditions of these General WDRs is discovered, the provisions of section III.B.3. shall be followed.

For all other inspections conducted pursuant to section III.G. where violations are not discovered, the Discharger shall submit a summary report to the Executive Officer by June 30<sup>th</sup> for each year of coverage under these General WDRs or upon termination of

coverage. The summary report shall at a minimum include the date of each inspection, the inspector's name, the location of each inspection, and the title and name of the person submitting the summary report.

4. Public Documents

The technical reports are considered a report that shall be available to the public by the Regional Board.

5. Preparer Certification

The technical reports, any amendments, and inspections reports shall be signed by the Discharger or their duly authorized representative, pursuant to section IV.S., and shall include the date of initial preparation and the date of each amendment.

6. Implementation

The requirements of this section shall be implemented at the time of commencement of the Project. The Discharger is responsible for implementing these requirements until coverage under this Order is terminated or rescinded.

G. Amendments

All amendments to Projects enrolled in the General WDRs shall be reviewed by the Discharger for compliance with the provisions of those General WDRs. The Discharger shall update the ECP, implementation schedule, and inspection plan as necessary to remain consistent with these General WDRs, and submit the updated documents to the Regional Water Board, if updates are necessary, to maintain coverage under these General WDRs. If the approved amendment is found to be out of compliance with these General WDRs, the Discharger shall amend the Project to be consistent with the provisions of the General WDR within 30 days, or coverage under these General WDRs shall be terminated. If enrollment in the General WDRs is terminated, the Discharger shall seek Project coverage under an individual WDR.

## **SECTION IV: GENERAL CONDITIONS AND PROVISIONS**

The following conditions and provisions apply to all Projects seeking coverage under these General WDRs.

A. CEQA Compliance

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.

B. Inspection and Entry

The Discharger shall allow the Regional 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.A. of this Order.

The Discharger shall allow Regional Board staff access to copy at reasonable times any records that must be kept under the conditions of these General WDRs.

C. Monitoring and Reporting Requirements

The Discharger shall develop and implement additional monitoring and reporting requirements when directed in writing by the Executive Officer.

D. Proposed Pesticide Applications

For those Projects where application of pesticides is proposed or being considered, the Discharger shall notify the Regional Board in writing at least 45 days prior to any proposed aerial application of pesticides and 30 days prior to any proposed ground-base 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. Subsequent changes to the proposed application must be submitted in writing forthwith, and in no event less than 14 days before the pesticide application, unless Regional Board staff agrees in writing to a lesser notice. This Order does not authorize the application or discharge of pesticides.

E. Nonindustrial Timber Management Plan Notification

For an approved Nonindustrial Timber Management Plan, each future Notice of Timber Operations shall be submitted to the Regional Board five (5) days prior to commencement of timber harvest activities.

F. Compliance with Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Act provides significant penalties for any person who violates a permit prohibition, limitation, or provision. Any person who violates any permit condition of this Order may be subject to a penalty thereunder.

G. Compliance with Eligibility Criteria and Conditions

Notwithstanding any other provision of this Order, the burden is on the Discharger to demonstrate that each finding required for coverage under this general waste discharge requirements can be made, and that each and every term, eligibility criteria and condition has been met. Notwithstanding any other provision of this Order, no general waste discharge requirements coverage shall be valid unless each and every term, eligibility criteria and condition is met.

H. Duty to Comply

The Discharger must comply with all of the conditions of these General WDRs. Any noncompliance constitutes a violation of the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General WDR coverage.

I. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of these General WDRs.

J. Proper Operation and Maintenance

The Discharger shall at all times properly operate and maintain any facilities and systems which are installed or used by the Discharger to achieve compliance with the conditions of these General WDRs and with the requirements of the technical reports. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.

K. Property Rights

These General WDRs does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor does it authorize any infringement of Federal, State, or local laws or regulations.

L. Duty to Provide Information

Upon written request by the Executive Officer, the Discharger shall furnish the Regional Board, within a reasonable time, any requested information to determine compliance with these General WDRs. The Discharger shall also furnish, upon request, copies of records required to be kept by these General WDRs.

M. Anticipated Noncompliance

The Discharger will give advance written notice to the Regional Board of any planned changes in the Project which may result in noncompliance with General WDR requirements.

N. Severability

The provisions of these General WDRs are severable; and, if any provision of these General WDRs or the application of any provision of these General WDRs to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of these General WDRs shall not be affected thereby.

O. Reopener Clause

These General WDRs may be modified, revoked and reissued, or terminated for cause.

P. Availability

A copy of these General WDRs, the technical reports, and monitoring program shall be provided to appropriate operating personnel, including, but not limited to, Registered Professional Foresters, Licensed Timber Operators and monitoring staff. The required technical reports shall remain on the Project site in the possession of appropriate operating personnel while the site is under operations during working hours, commencing with the initial timber harvest activity and ending with termination of coverage under these General WDRs.

Q. Transfers

Enrollment in these General WDRs are not transferable. A new owner of an ongoing Project must submit an application in accordance with the requirements of these General WDRs to be authorized to discharge under these General WDRs. An owner who sells property covered by these General WDRs shall inform the new owner of the duty to file an application and shall provide the new owner with a copy of these General WDRs. Failure to inform the new owner shall not release the selling owner from any potential liability for failure to comply with the terms and conditions of these General WDRs while under the Discharger's control, nor will it release the buyer from any potential liability for failure to apply for coverage under these WDRs, or other provisions of the Porter-Cologne Water Quality Control Act.

R. Required Changes

1. The Discharger shall amend the technical reports whenever there is a change in the Project that may adversely affect receiving waters or ground waters. The technical reports shall also be amended if the Discharger violates any condition of these General WDRs or has not achieved the general objective of preventing and minimizing sediment discharges. Additionally, the ECP shall be updated if new controllable sediment discharge sources are found.
2. The Regional Board or Executive Officer may require the Discharger to amend the technical reports for cause.

S. Signatory Requirements

All applications, Notice of Terminations, technical reports, inspection reports, certifications, and reports prepared in accordance with this Order submitted to the Regional Board shall be signed by the Discharger or their duly authorized representative(s). Duly authorized representatives include registered professional foresters, licensed timber operators, and other licensed professionals hired by the Discharger and responsible for

some portion of the conduct of the timber harvest activities. Irrespective of who signs any required documents, the timberland owner is responsible for compliance with all requirements and these General WDRs.

T. Failure to Obtain Coverage

Dischargers who fail to obtain coverage under this Order or another applicable order will be subject to enforcement under California Water Code (CWC) Section 13264 and other applicable law if their Project results in an un-permitted discharge of waste.

**SECTION V: RESCISSION AND DENIAL OF COVERAGE**

- A. The Executive Officer shall rescind or deny the applicability of these General WDRs to a specific Project if the Executive Officer makes any of the following determinations:
1. The Project does not comply with any provision of these General WDRs;
  2. The Project is reasonably likely to result or has resulted in a violation or exceedence of any applicable water quality requirement;
  3. The Project has varied in whole or in any part from the approved Project in any way that could adversely affect water quality;
  4. 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.
  5. 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.
  6. When requested by another state agency, a subdivision of the state (county) or a federal agency, and with concurrence by the Executive Officer.
  7. The Project is the subject of an unresolved non-concurrence filed by the Regional Board staff with CDF.
  8. The Project meets the General WDR conditions, but may still result in discharge that could affect the quality of waters of the state.
- B. Upon receipt of a rescission or denial notice of these General WDRs, the Discharger shall immediately cease all timber harvest activities that may result in unpermitted discharges of waste to waters of the state, other than activities necessary to control erosion. Upon notice of termination or denial, the Discharger must file a report of waste discharge and applicable filing fee for individual, watershed, or ownership-wide WDRs. 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 individual 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 otherwise 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 rescission 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.

#### **SECTION VI: TERMINATION OF COVERAGE**

- A. The Discharger may terminate coverage under these General WDRs for a completed Project by submitting to the Regional Board a Notice of Termination form (NOT). The NOT shall be signed in accordance with section IV.S. Note that a Project is considered complete when the following conditions have been met:
1. Timber harvest activities are completed,
  2. The Project site is stabilized,
  3. There is no potential for waste discharges from the Project in violation of the Basin Plan or these General WDRs.
  4. All elements of the technical reports have been completed,
  5. Earthen materials and waste have been disposed of properly,

The Executive Officer shall review the NOT and determine its appropriateness by assessing Items VI.A.1-5 above. The review may include a field inspection to verify Project completeness. The Executive Officer shall notify the Project proponent regarding approval or disapproval of the NOT.

#### **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.

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Catherine Kuhlman  
Executive Officer