

California Regional Water Quality Control Board North Coast Region

Order No. R1-2024-0002

General Waste Discharge Requirements  
and General Water Quality Certification  
for Rural Road Construction and Reconstruction Activities  
in the North Coast Region

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

1. This Rural Roads General Order (hereafter referred to as the “Order”) is a permitting pathway to authorize rural road and watercourse crossing construction and reconstruction activities that implement all applicable Best Management Practices (BMPs) designed to minimize road related sediment discharge. The Order creates an effective permitting pathway that covers incidental point and nonpoint source discharges from these activities and will improve water quality, protect rural properties and their inhabitants, and increase regulatory efficiencies for staff and landowners.
2. The North Coast Region encompasses 19,390 square miles, containing over 6,000 miles of rural roads. Rural roads are defined as low traffic roads generally located in forested and rangeland settings that serve residential, recreational and resource management uses. Rural roads may be owned and/or managed by governmental or private parties. Rural roads are an essential component of the transportation system in the North Coast Region. Rural areas commonly lack public transportation and residents depend on their private vehicles to get them to work, school and shopping sites. Rural roads also serve numerous recreational users every year. In emergencies such as wildfire and flooding events, rural roads provide the means for emergency response, evacuation and other essential services.
3. Many rural roads are one or two lanes wide with natural, gravel or other road surfacing, many of which were originally constructed to relatively low standards, with a limited budget, and intended to support historic land use activities. They may be “legacy” roads originally constructed as railroad grades, wagon trails or historic logging roads. Often, rural roads were constructed in locations that were necessary to match the construction equipment and technologies of the day, and often lacked modern design principles and environmental protection standards. However, many historic road networks have remained on the landscape and now service contemporary land use activities.
4. Rural roads and their associated watercourse crossings are among the most significant sources of anthropogenic sediment delivery to watersheds. Total Maximum Daily Loads (TMDL) developed for sediment impaired watersheds, as well as numerous scientific studies, recognize rural roads as being responsible for: 1) increased chronic sediment discharges from hydrologically connected road segments<sup>1</sup>, 2) increased potential for stream diversions (stream channel capture), rill and gully erosion, and shallow landslides, and

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<sup>1</sup> Hydrologic connectivity refers to the length or portion of a road or road network that drains runoff directly to streams or other water bodies. Any road segment that has a continuous surface flow path to a natural stream channel during a ‘design’ runoff event is termed a hydrologically connected road or road reach. Connectivity usually occurs through road ditches, road surfaces, gullies, rolling dips, waterbars or other drainage structures or disturbed surfaces associated with roads.

- 3) discharge of significant portions of earthen material contained in the crossing due to episodic failures of the plugged or malfunctioning watercourse crossing structures, and
  - 4) barriers to fish and other wildlife migration.
5. Implementation of management practices to reduce road related sediment discharges have been on the rise for decades and are continuing to become the standard practice on rural ownerships throughout the North Coast. A proactive approach to road and watercourse crossing construction, reconstruction, and maintenance activities, consisting of implementing current management practices, is effective and essential to controlling sediment discharge from roads as well as preventing road failures that impede critical access to remote areas. Numerous guidance documents or manuals have been developed that provide information on general principles and practical specifications for reducing sediment discharge from roads. One such widely used reference document for planning, designing, constructing, reconstructing, maintaining, and decommissioning roads on forestlands is the Pacific Watershed Associate's (PWA) Handbook of Forest, Ranch and Rural Roads<sup>2</sup> (Weaver and Hagans, 2015). The PWA Handbook contains a comprehensive suite of measures for rural roads that Regional Water Board staff consider adequate and necessary to control sediment discharge from roads. Additional guidance can be found from other sources as well, such as the Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds (5C Roads Manual), California Forest Practice Rules, "Road Rules" (Cal. Code Regs., tit. 14, §§ 923), Designing Watercourse Crossings for Passage of 100-Year Flood Flows, Wood, and Sediment (Cafferata et al, 2017), and others. Taken together, such current standard practices can constitute preferred management practices for roads.
6. Roads on which all feasible site-specific sediment control measures have been implemented, as described in standard references such as the PWA Handbook, are often referred to as "storm-proofed", and generally incorporate the design features summarized below into construction or reconstruction of roads and watercourse crossing:
- Designing watercourse crossings to minimize the potential for crossing failure and diversion of streams and sizing adequately to accommodate estimated 100-year flood flows (including wood and sediment);
  - Hydrologically disconnecting road segments from watercourses and minimizing concentration of surface runoff by installing drainage structures at sufficient intervals to disperse runoff so as to avoid gully formation and minimize erosion of the road surface and inside ditches;
  - Identifying and treating potential road failures (mostly fill slope failures) that fail and deliver sediment to streams; and
  - Surfacing roads with materials appropriately suited to their level of use to minimize fine sediment delivery to watercourses

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<sup>2</sup> [The PWA Handbook](https://www.pacificwatershed.com/sites/default/files/RoadsEnglishBOOKapril2015b.pdf) can be found at the following web location: (RoadsEnglishBOOKapril2015b.pdf (pacificwatershed.com)) or (<https://www.pacificwatershed.com/sites/default/files/RoadsEnglishBOOKapril2015b.pdf>)

Figure 204 on Page 229 of the PWA Handbook provides a summary of the characteristics of storm-proofed roads and watercourse crossings, which serve as performance standards for rural road projects covered by this Order.

7. The California Department of Parks and Recreation (California State Parks) has developed guidance documents for projects on roads, trails and watercourse crossings. These documents provide practical field guidance on construction BMPs that were developed and tested in Northern California. When combined with information provided in the PWA Handbook and other materials referenced in Finding 5, road, trail and watercourse crossing projects on California State Parks' lands that implement applicable BMPs, are considered to result in long term protection of water quality and meet the objectives of ecological enhancement.
8. While implementation of BMPs described above has been shown to be effective on significantly reducing chronic and acute sediment discharges from existing roads and watercourse crossings, conducting work to implement these BMPs has the potential to discharge sediment and impact beneficial uses of the receiving water. Therefore, pursuant to the State Water Board's Nonpoint Source (NPS) Enforcement and Implementation Policy<sup>3</sup>, projects that have the potential to result in a nonpoint source discharge must be regulated under waste discharge requirements (WDRs), waivers of WDRs, a basin plan prohibition, or some combination of these administrative tools. Road projects that are set back from surface waters sufficiently such that there is no potential for discharge are not subject to the above regulation and do not require coverage under a Regional Water Board permit. While there are several existing Regional and State Water Board Orders that can provide coverage for projects that are also eligible for authorization under this Order, many have enrollment restrictions and none of the existing permits are tailored specifically to rural road projects. Regional Water Board staff developed the terms, conditions, enrollment and termination process for this Order to improve the permitting process and require specific water quality protections to address rural road and watercourse crossing construction and reconstruction activities. Permitting efficiencies should also provide an incentive for stakeholders throughout the region to stormproof roads and upgrade crossings. In addition, in light of recent changes to the federal waters jurisdiction, this order creates efficiencies because it is both a WDR and Water Quality Certification that can be used staff to authorize activities within waters of the US and or waters of the state.
9. Regional Water Board staff developed this Order to ensure that road and watercourse crossing construction and reconstruction projects incorporate all necessary BMPs to prevent, minimize, and mitigate potential impacts to water quality. Such activities have the potential to adversely affect waters of the state from short term increases in erosion and sediment delivery and/or alterations to riparian systems that may reduce shade and affect water temperatures. Such short-term impacts on road and watercourse reconstruction projects that will result in long-term benefits to water quality are generally considered to be "self-

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<sup>3</sup> [Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program](https://www.waterboards.ca.gov/water_issues/programs/nps/docs/plans_policies/nps_iepolicy.pdf)  
([https://www.waterboards.ca.gov/water\\_issues/programs/nps/docs/plans\\_policies/nps\\_iepolicy.pdf](https://www.waterboards.ca.gov/water_issues/programs/nps/docs/plans_policies/nps_iepolicy.pdf))

mitigating”. As existing road segments are hydrologically disconnected from the stream network and watercourse crossings are upgraded, full and proper implementation of applicable BMPs reduce any short-term impacts to “less than significant.”.

10. Attachment A of the Order includes general mitigation measures designed to prevent or minimize environmental impacts to a level that is less than significant. The Order requires project proponents to utilize and implement the mitigation measures contained in Attachment A when implementing remediation and restoration activities on rural roads, which include but are not limited to:
  - Temporal limitations on project activities, which include seasonal restrictions;
  - Limitation on earthmoving and construction equipment to minimize soil and compaction;
  - Erosion control requirements to stabilize areas disturbed during project activities;
  - Guidelines for minimizing impacts from channel excavation and stream bank stabilization;
  - Limitations on work in streams and wet areas;
  - Guidelines for temporary stream diversion and dewatering in flowing streams;
  - Protection of sensitive species; and
  - Protection of Cultural and Tribal Cultural Resources.
11. In the North Coast region, climate change model predictions of annual precipitation fall within the range of historical variation, but trend towards slightly higher (2-16%) precipitation across the region by the end of century. An analysis of historical flood trends has not been performed for the North Coast region. However, climate model predictions suggest that more precipitation will occur in wet years, increasing flows during the peak streamflow season in winter (Burke and Ficklin 2017, Naz et al. 2016, Grantham et al. 2018). A study by Swain et al. (2018) also suggests that the frequency and intensity of extreme precipitation events will increase, likely intensifying flooding in the North Coast region. High rainfall intensities also increase the likelihood of landslides and debris flows. Transportation infrastructure designed for a milder climate will be at risk with larger and more frequent storms and flood events. Therefore, projects must incorporate the most up to date methods and data to determine minimum watercourse crossing design specifications.

### **General Water Quality Certification**

12. Projects that involve construction and other work (dredge or fill) in waters of the United States will likely require a permit from the Army Corp of Engineers pursuant to section 404 (33 U.S.C. § 1344) of the Clean Water Act. Section 401 of the Clean Water Act (33 U.S.C. §1341) requires every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act, and other appropriate requirements of state law (33 U.S.C. § 1313). The Regional Water Board Executive Officer may issue a decision on a water quality certification application. (Cal. Code Regs., tit. 23, § 3838, subd. (b).) State water quality certification conditions shall become conditions of any federal license or permit for the project.
13. The Regional Water Board may issue a General Water Quality Certification for a class or classes of activities that are the same, or similar, or involve the same or similar types of

discharges and possible adverse impacts to water quality if it determines that these activities are more appropriately regulated under a general certification rather than individual certifications (Cal. Code Regs., tit. 23, §3861). General certifications apply for a fixed term not to exceed five years, must be conditioned to require subsequent notice to the Regional Water Board at least 30 days prior to commencement of the activity, and include appropriate monitoring and reporting requirements. A fee is also required pursuant to California Code of Regulations, title 23, section 3833, sub.(b)(3).

14. This Order includes a General Water Quality Certification for activities covered under this Order that may require a federal permit. General certification requirements in addition to waste discharge requirements are provided for in this section of this Order. Any discharger seeking Clean Water Act section 401 General Water Quality Certification for a project shall notify the Regional Water Board at least 30 days prior to commencement of the activity and submit information regarding the construction schedule and other relevant information in the Notice of Intent form, and appropriate fee. Unless the Regional Water Board determines that the project or activity does not meet the specified criteria for coverage under the General Water Quality Certification, this Order provides Clean Water Act section 401 certification for the federal permit required for that project. Projects that do not meet the criteria for coverage under this general certification must apply for authorization under an individual 401 certification or other applicable general certification.
15. The General Water Quality Certification contained in this order shall not apply to activities that will: 1) result in significant unavoidable environmental impacts including permanent impacts to waters of the state, and/or violation of water quality standards; 2) result in the unauthorized direct or indirect take of any listed species; or 3) expose people and/or structures to potential adverse effects from flooding, landslides or soil erosion. (Cal. Code Regs., tit. 23, §3861, subd. (d).)

### **Project Categories**

16. Section I.c.1-5 of this Order defines five project categories along with their eligibility based on potential threat/benefit to water quality and complexity. The categories will be used to determine the application information and annual fees for each project based on the State Water Board's fee schedule<sup>4</sup>.
17. Projects that support TMDL implementation, or are voluntarily undertaken and will enhance the beneficial uses and meet the definition of an Ecological Restoration and Enhancement Project and the eligibility criteria described in section I.c.1-3 qualify for Discharge Category D, from the State Water Board's fee schedule. The State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State<sup>5</sup> defines Ecological

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<sup>4</sup> The fee schedule is updated yearly. Fees for projects covered by this order are specified in Title 23, Division 3, Chapter 9, Waste Discharge Reports and Requirements Article 1.

<sup>5</sup> On April 2, 2019, the State Water Board adopted the [State Wetland Definition and Procedures for the Discharge of Dredged or Fill Material to Waters of the State \(Procedures\)](https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html) ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/wrapp.html](https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html)). The Procedures

Restoration and Enhancement Projects as a *project [that] is voluntarily undertaken for the purpose of assisting or controlling the recovery of an aquatic ecosystem that has been degraded, damaged or destroyed to restore some measure of its natural condition and to enhance the beneficial uses, including potential beneficial uses of water and are undertaken in accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the real property interest owner or the entity conducting the habitat restoration or enhancement work and a federal or state resource agency.*

18. Section I.c.4-5 of this Order includes two project categories that do not qualify for the Ecological Restoration and Enhancement Project fee category (these projects will likely fall into Discharge Category A, Fill and Excavation Discharges, but project applicants should contact Regional Water Board staff for guidance on which fees apply to a project).

## Procedure

19. To be covered under this Order, a discharger must sign and submit a completed Notice of Intent (form included as Attachment B) to the Regional Water Board. The Notice of Intent must be signed by the Discharger and certify the discharger's intent to implement all applicable BMPs and comply with all applicable requirements of this Order. Upon receipt of a completed Notice of Intent, Regional Water Board staff will review the project and within 30 days of receipt, either determine the project complies with the requirements of the Order and provide the project proponent with a Notice of Applicability signed by the Executive Officer or provide written notification of deficiencies in the project that resulted in the determination. Provided all other required permits have been obtained, project activities may commence upon receipt of a Notice of Applicability signed by the Executive Officer.
20. Projects will remain covered under the Order until either, 1) the Regional Water Board Executive Officer rescinds coverage for a project after having determined that any of the conditions laid out in section VI.a are present or, 2) the Discharger submits a Notice of Termination (form included as Attachment C) certifying that project implementation and the required monitoring have been adequately completed according to the application and enrollment documents, Regional Water Board staff have determined that the project meets the definition of a completed project from section VI.e of the Order, and the Executive Officer approves termination of coverage of the project.

## Monitoring

21. This Order includes a monitoring and reporting component that requires project proponents to conduct post-completion on-site evaluations to ensure BMPs and compensatory mitigation were implemented as designed (while still providing a mechanism to allow flexibility to make changes during implementation as conditions warrant), are functioning properly and are self-

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became effective May 28, 2020. Applicants proposing to discharge dredged or fill material are required to comply with the Procedures unless an exclusion applies, or the discharge qualifies for coverage under a [General Order](#).

([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/generalorders.html](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html))

sustaining, or whether additional work is needed. Duration of the monitoring requirement would likely be two years for most road and watercourse crossing projects but could be up to five years for complex compensatory mitigation. These timeframes could be modified on a project-specific basis with RWB approval.

22. Project proponents shall document the results of each required inspection in the Monitoring Inspection Form included as Attachment D. Reports must contain sufficient information that Regional Water Board staff can clearly understand site conditions following completion of work and throughout the monitoring period, including key results, findings, problems encountered, and corrective actions taken.

### **Wetland and Stream Protection**

23. Disturbance to wetlands and streams should be avoided or minimized to the greatest extent practicable. If it is determined that a wetland will be temporarily or permanently impacted by the proposed project, mitigation will need to be conducted to establish, restore, enhance or preserve the functions and values of wetlands and associated beneficial uses. Any unavoidable impacts to waters must be restored and/or compensated for to ensure compliance with California's Wetland Conservation Policy EO W-59-93, Antidegradation Policy SWRCB resolution No. 68-16, and the State Water Board's, *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredge or Fill Material to Waters of the State*.
24. Projects that will cause temporary impacts to beneficial uses and ecological functions shall describe how the site will be restored following completion. This restoration may be achieved passively through project design and implementation or may be achieved through development and implementation of a restoration plan. Dischargers shall describe the activities to be conducted to restore functions at the site, including success criteria and applicable monitoring. Temporary impact examples may include but not be limited to temporary dewatering, temporary fill or excavation and vegetation removal.
25. Permanent impacts to beneficial uses and ecological functions that include a complete loss of area or degradation of these uses or functions will require submittal and approval of a mitigation plan to offset or compensate for these losses. Permanent impact examples may include but are not limited to new culverts or bridges or extensions of existing structures.
26. Dischargers must include an alternatives analysis (unless meeting a qualified exemption) with their application if their project includes new watercourse crossing construction that creates new permanent impacts to waters of the state as specified in *State Water Board's, State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredge or Fill Material to Waters of the State*. An alternatives analysis is the process of analyzing project alternatives, including the proposed project, to determine the alternative that is the least environmentally damaging practicable alternative. This process can serve to inform whether compensatory mitigation may be necessary to ensure the project is the least environmentally damaging practicable alternative, and if so, what type of compensatory mitigation would be most suitable. The level of detail in an alternatives analysis and any mitigation plans shall be commensurate with the size and scope of the



impact. Mitigation plans shall include performance and success criteria and monitoring and reporting when applicable to demonstrate mitigation successfully offsets the permanent impacts. Mitigation proposals are reviewed and approved on a case-by-case basis. Information required by the Notice of Intent, which serves as the project enrollment application, will lead applicants through the process of describing the project and the nature of anticipated impacts and whether compensatory mitigation will be necessary. Attachment E is a guidance document to assist applicants in understanding when compensatory mitigation will be required and provides examples of compensatory mitigation projects that would be appropriate for the typical projects covered under the Order.

27. This Order presumes that most road and watercourse crossing reconstruction activities that are designed to reduce chronic erosion from hydrologically connected roads, or that upgrade malfunctioning or poorly designed watercourse crossings to current standards and/or support TMDL goals, will qualify as Ecological Restoration and Enhancement Projects. These projects are recognized as having a water quality benefit, are required to conform to pre-defined environmental protection standards in this Order, and therefore will not be required to (1) conduct additional compensatory mitigation to offset new permanent impacts (such as replacing an undersized culvert with a larger culvert), (2) develop an Alternatives Analysis, or (3) conduct a least environmentally damaging practicable Alternative assessment.

### **Additional Findings**

28. The Regional Water Board has reviewed the contents of this Order, its accompanying Initial Study and Mitigated Negative Declaration, written public comments and testimony provided after notice and hearing and finds that the adoption of this Order is consistent with the Basin Plan, is in the public interest, and that with mitigation measures incorporated, there is no substantial evidence that this Order will have a significant effect on the environment.
29. Some measures required by this Order and incorporated into Attachment A are included based on comments received from Responsible/Trustee agencies in response to the circulated Initial Study/Mitigated Negative Declaration (IS/MND). The measures included are deemed to be equal to, or more effective than the requirements proposed in the circulated IS/MND. The Regional Water Board finds that inclusion of these measures will not have any potentially significant effect on the environment.
30. The provisions listed in this Order, including section IV that specifies monitoring and reporting requirements, serves as the mitigation monitoring or reporting program as required by the CEQA Guidelines. (Cal. Code Regs., tit. 23 § 15097.)
31. The Regional Water Board has considered the IS/MND, and all comments received and finds on the basis of the whole record that there is no substantial evidence that the project will have a significant effect on the environment and that the IS/MND reflects the Regional Water Board's independent judgment and analysis. The Executive Officer or his/her delegee will file a Notice of Determination within five working days of adoption of this Order. (Cal. Code Regs., tit. 23 § 15075.)



32. Attachment F of this Order, Supplemental Order Findings, contains findings related to 1) the legal and regulatory framework that supports the Regional Water Board's issuance and implementation of this Order, including information regarding how the Regional Water Board implements elements of the Federal Clean Water Act, California's Porter Cologne Water Quality Control Act, the Basin Plan, and state and regional policies designed to protect and restore the beneficial uses of waters of the state; 2) tribal consultations and outreach and engagement to the public and disadvantaged communities to inform the development of this Order and associated Monitoring and Reporting Program.

**THEREFORE**, pursuant to California Water Code sections 13263 and 13267, the Regional Water Board hereby approves and adopts Order No. R1-2024-0002 and associated Mitigated Negative Declaration and directs the Executive Officer to file all appropriate notices. Dischargers seeking coverage for eligible rural road projects shall comply with the following:

**IT IS HEREBY ORDERED THAT:** pursuant to Water Code sections 13160, 13263, 13267, and/or 13383, the Regional Water Board hereby adopts General Waste Discharge Requirements and General Water Quality Certification for projects that meet the requirements established below:

## **I. ELIGIBILITY AND APPLICATION REQUIREMENTS**

- a. Eligible projects consist of the construction, reconstruction or decommissioning of rural roads and their associated watercourse crossings that implement all applicable design elements to prevent or minimize sediment discharges and comply with all applicable characteristics of "storm-proofed roads" from the applicants completed Notice of Intent (Attachment B).
- b. This Order is generally intended for coverage of low volume private rural roads in forested and rangeland settings that serve residential, recreational and resource management uses and roads and trails on State Park lands. State Highways, roads maintained by the California Department of Transportation (Caltrans), cities and counties are generally not eligible for coverage under the Order. However, there may be exceptions for some low volume road segments that meet the intent of this Order. Projects on State Highways, roads maintained by the California Department of Transportation (Caltrans), cities and counties may be eligible for coverage under this Order if the discharger requests and receives approval from the Regional Water Board Executive Officer.
- c. This Order defines five project categories described below based on potential threat/benefit to water quality and complexity.

Projects that support TMDL implementation, or are voluntarily undertaken and will enhance the existing or potential beneficial uses of water and meet one of the eligibility criteria described in sections c.1 through 3 below qualify as Ecological Restoration and Enhancement Projects:

1. Voluntary road and watercourse crossing reconstruction projects, or those that are necessary to comply with a TMDL that provide a benefit to water quality by

implementing all necessary and applicable BMPs. Projects that include new watercourse crossing construction are not eligible for this category.

2. Publicly funded conservation projects that are designed to provide water quality or aquatic habitat restoration benefits, such as those funded through the 319h Nonpoint Source Control Program, CDFW Fisheries Restoration Grant Program and NOAA Fisheries Restoration Center.
3. Projects on roads and trails on California State Parks lands that implement applicable BMPs from the guidance documents referenced in Finding 5.

The following two project categories described in c.4 and 5 below do not qualify as Ecological Restoration and Enhancement Projects:

4. Voluntary road and watercourse crossing projects that include new road and/or watercourse crossing construction.
5. Projects conducted in response to regulatory enforcement actions by the Water Board<sup>6</sup>, California Department of Fish and Wildlife, or other regulatory agencies.

The categories will be used to determine the application and annual fees for each project based on the State Water Board's fee schedule. Projects that meet the eligibility criteria from c.1 through 3 above currently qualify for Discharge Category D, from the State Water Board's fee schedule. Projects eligible for categories C.4 through 5 will likely fall into Discharge Category A, Fill and Excavation Discharges as described in the State Water Board's fee schedule. [A fee calculator](https://www.waterboards.ca.gov/water_issues/programs/cwa401/#fees) can be found online at: ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/#fees](https://www.waterboards.ca.gov/water_issues/programs/cwa401/#fees)).

The calculator is useful for estimation of fees, but project proponents must confirm the correct fee amount through consultation with the Regional Water Board prior to submitting payment. Appropriate fees will be determined by the current fee regulations at the time of NOI submittal for an individual project.

- d. To seek coverage for a rural road project under this Order, a discharger must submit a completed Notice of Intent to the Regional Water Board. The Notice of Intent must be signed by the Discharger and certify the intent to implement all applicable BMPs and comply with all applicable requirements of this Order and described in the Notice of Intent. Upon receipt of a completed Notice of Intent, Regional Water Board staff will review the project and within 30 days of receipt, either determine the project complies with the requirements of the Order and provide the project proponent with a Notice of Applicability

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<sup>6</sup> The Regional Water Board's Executive Officer maintains discretion regarding determinations of whether a project is taken in response to a regulatory enforcement action or other regulatory requirement. For example, projects listed in c.1, that may be necessary to comply with a TMDL may still qualify as an Ecological and Restoration Enhancement Project even if such projects are not considered voluntary.

signed by the Executive Officer or provide written notification of deficiencies in the project that resulted in the determination.

- e. Provided all other required permits have been obtained, project activities may commence upon receipt of a Notice of Applicability signed by the Executive Officer.

## II. GENERAL REQUIREMENTS

- a. Dischargers and all representatives conducting work on behalf of the discharger, such as employees or contractors, are responsible for compliance with all activities associated with projects covered under the Order.
- b. Road project activities that will have no potential for discharges to waters of the state are not subject to this Order. However, dischargers shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2022-0057-DWQ) for construction projects on land that disturb one or more acres of soil, or less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, regardless of their proximity to waters of the state.
- c. While the project is enrolled in the Order, Dischargers shall allow Regional Water Board staff entry onto the project area following reasonable notification for the purposes of observing, inspecting, photographing, videotaping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with this Order.
- d. This Order does not provide the applicant regulatory coverage that is otherwise required by other local, state or federal agencies. Applicants should contact these agencies to determine whether additional permitting or authorizations are required, potentially including but not necessarily limited to: a Lake and Streambed Alteration Agreement (LSAA) from the California Department of Fish and Wildlife, a Section 404 Clean Water Act permit from the U.S. Army Corps of Engineers, or a local county grading permit.
- e. Project activities that entail use of heavy equipment or excavation shall not occur between October 15 and April 1 or when saturated soil conditions<sup>7</sup> are present in the project area. Prior to October 15 of each year that project activities occur, project areas must be fully stabilized such as to withstand anticipated winter weather conditions. Between October 15 and April 1, limited heavy equipment use or excavation may occur during extended dry periods with written approval from Regional Water Board staff.

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<sup>7</sup> Saturated Soil Conditions means that soil and/or surface material pore spaces are filled with water to such an extent that runoff is likely to occur. Indicators of saturated soil conditions may include, but are not limited to: (1) areas of ponded water, (2) pumping of fines from the soil or road surfacing material during project activities, (3) loss of bearing strength resulting in the deflection of soil or road surfaces under a load, such as the creation of wheel ruts, (4) spinning or churning of wheels or tracks that produces a wet slurry, or (5) inadequate traction without blading wet soil or surfacing materials.

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- f. Completed projects must meet all applicable characteristics of storm-proofed roads from the Notice of Intent, or otherwise must provide justification regarding why they cannot meet one of the applicable standards and how the project will be similarly protective of water quality.
- g. Dischargers shall comply with all applicable general mitigation measures identified in Attachment A of the Order and the accompanying mitigated negative declaration. All CEQA mitigation measures shall constitute enforceable conditions under this Order.
- h. Compliance with Order requirements will ensure that no significant environmental impact to water quality occurs from an activity covered by this Order. Activities that have potentially significant impacts to water quality that cannot be reduced to less than significant levels are not eligible for coverage under this Order. Dischargers will need to submit a Report of Waste Discharge to the Regional Water Board and any necessary documentation to comply with CEQA to obtain individual authorization for that activity.
- i. Dischargers shall comply with all applicable water quality standards, requirements, and prohibitions specified in the Basin Plan as modified, and policies adopted by the State Water Board.
- j. Project activities covered under this Order shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life. Project activities covered under this Order shall not discharge waste classified as “hazardous” as defined in California Code of Regulations, title 22, section 66261 and Water Code section 13173.
- k. Project activities that receive coverage under this Order does not preclude the Regional Water Board from administering enforcement remedies (including administrative civil liability) pursuant to the Water Code.
- l. Dischargers who fail to obtain coverage under this Order or another applicable order may be subject to enforcement under Water Code sections 13350 and/or 13385, 13264 and other applicable law if their Project results in an un-permitted discharge of waste.
- m. As provided by Water Code section 13350 subdivision (a), any person may be liable for civil penalties if that person is in violation of a condition of this Order, 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.
- n. As provided by Water Code section 13385 subdivision (a), a person who violates a water quality certification issued pursuant to 13160 or fails to obtain water quality certification for activities which require certification, or discharges pollutants in violation of the Clean Water Act may be held liable for civil penalties.
- o. The Order does not cover discharges of hazardous materials. In the event of an accident, Dischargers must comply with the requirements of the California Emergency Management Agency Hazardous Materials Spill reporting process. Any significant release or threatened release of a hazardous material requires immediate reporting by the responsible person to the Cal EMA State Warning Center (800) 852-7550 and the Certified Unified Program Agency (CUPA) or 911. The CUPA may designate a call to 911 as meeting the requirement to call them. [Contact information for a jurisdiction's CUPA can be found](#) at

[Spill Release Reporting | California Governor's Office of Emergency Services/](https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/#:~:text=HAZMAT%20SPILL%20NOTIFICATIONS%20CALL%20THE,Agency%20(UPA)%20or%20911.)  
([https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/#:~:text=HAZMAT%20SPILL%20NOTIFICATIONS%20CALL%20THE,Agency%20\(UPA\)%20or%20911.](https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/#:~:text=HAZMAT%20SPILL%20NOTIFICATIONS%20CALL%20THE,Agency%20(UPA)%20or%20911.)) or at (<https://cersapps.calepa.ca.gov/Public/Directory>).

Notifying the State Warning Center (800) 852-7550 and the CUPA or 911 constitutes compliance with the requirements of section 11004 of title 42 of the United States Code regarding verbal notification of the SERC and LEPC (California Code of Regulations, Title 19 Section 2703 (e)). Additional information regarding spill reporting may be found at Spill Release Reporting | [California Governor's Office of Emergency Services](https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/) or at (<https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/>).

### III. DISCHARGE PROHIBITIONS

- a. The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.
- b. The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.
- c. Discharges of waste, which are not otherwise authorized by waste discharge requirements, or other orders issued by the Regional Water Board or the State Water Resources Control Board, to waters of the state in violation of Basin Plan standards, are prohibited.
- d. Discharges must not cause or threaten to cause pollution, contamination, or nuisance.
- e. Discharges must not adversely impact human health or the environment or the beneficial uses of water set out by the Basin Plan.
- f. Discharges of waste that violate any narrative or numeric water quality objective, that are not authorized by waste discharge requirements or other order or action by the Regional Water Board or State Water Resources Control Board, are prohibited.

### IV. MONITORING AND REPORTING

This Monitoring and Reporting Program (MRP) is issued pursuant to Water Code sections 13267, subdivision (b) and 13383. The MRP requires Dischargers to implement the monitoring and reporting described below. The Regional Water Board has delegated its authority to the Executive Officer to revise, modify, and reissue the MRP.

a. Monitoring

Project proponents must conduct post-completion on-site evaluations to ensure BMPs and compensatory mitigation were implemented as designed and are functioning properly and self-sustaining, or whether additional work is needed. The duration of the monitoring requirement shall generally be two years for most watercourse crossing and road projects. For certain projects that include compensatory mitigation, and that Regional Water Board staff determine to be uniquely complex so as to warrant a longer period of monitoring to ensure project objectives have been met, post project monitoring for up to five years may be required.

Inspections

1. Beginning the first year of project activities, project proponents shall inspect the entire project area according to the following schedule:
  - i. By October 15 to ensure that project has been implemented as designed and that project areas are secure for the period between October 15 and April 1; and
  - ii. Between April 1 and June 15 to assess how the project area has performed during the winter period and to identify whether any problems have developed that require additional work.
2. For each required inspection, Dischargers shall evaluate the project area to ensure that all management measures described in the approved application package have been implemented as designed and are functioning properly. Any evidence of active or potential erosion or sediment discharge should be identified and measures to prevent or minimize sediment discharge implemented as soon as feasible.
3. Dischargers shall continue to monitor the project as described above for the duration specified in the signed Notice of Applicability.

b. Reporting

Project proponents shall document the results of each required inspection by including all applicable information from the Monitoring Inspection Form in Attachment D of the Order. Reports must contain sufficient information that Regional Water Board staff can clearly understand site conditions following completion of work and throughout the monitoring period, including key results, findings, problems encountered, and corrective actions taken.

All completed Inspection Forms shall be submitted with the final Notice of Termination (Attachment C) or when requested by Regional Water Board staff.

**THE REGIONAL WATER BOARD HEREBY CERTIFIES** that projects in compliance with the Order requirements above will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of State law, subject to the following additional terms and conditions:

## **V. GENERAL WATER QUALITY CERTIFICATION**

- a. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
- b. Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, section 3833, subdivision (b)(3). Annual Fee Schedules are detailed in the California Code of Regulation, title 23, section 2200.
- c. Authorization of this certification for any General Water Quality Certification or dredge and fill activities expires five (5) years from issuance of the NOA. (Cal.Code Regs., tit. 23 § 3864)
- d. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. (Wat. Code §§ 13385, 13383)
- e. The General Water Quality Certification portion of the Order may be modified as necessary by the Executive Officer of the Regional Water Board. (Cal.Code Regs., tit. 23, § 3861(e))

## **VI. TERMINATION OF COVERAGE**

- a. The Executive Officer may rescind or deny the applicability of this Order to any individual project or activity if the Executive Officer makes any of the following determinations:
  1. The project does not comply with any condition or provision of this Order.
  2. The project or activity is reasonably likely to result or has resulted in a violation or exceedance of any applicable water quality requirement.
  3. The project or activity has varied in whole or in any part from the approved Notice Of Intent in any way that could adversely affect water quality.
  4. When requested by the project proponent, another state agency (upon a demonstration that the project or activity would cause an exceedance of water quality standards or otherwise violate this Order), a subdivision of the state (county), or a federal agency, and with concurrence by the Executive Officer.
  5. The project or activity meets the Order terms but may still result in discharge that could affect the quality of waters of the state.
- b. Upon receipt of a written notice of rescission or denial of coverage for a project or activity under this Order, the applicability of this Order to the covered project or activity is



immediately terminated, except for enforcement purposes. Upon termination, the project proponent and all employees or contractors must immediately cease all activities that may result in un-permitted discharges of waste to waters of the state, other than activities necessary to control further discharges.

- c. Notwithstanding any other provision of this Order, the burden of proof is on the Discharger to demonstrate that each finding required for coverage under this Order can be made, and that each and every term, eligibility criterion, and condition has been met. Notwithstanding any other provision of this Order, no permit coverage is valid unless each term, eligibility criterion, and requirement is met.
- d. 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.
- e. Unless terminated or rescinded pursuant to sections VI (a-d), projects that receive coverage under this Order shall remain covered through the prescribed monitoring period. At that time, Dischargers may request termination of coverage by submitting a signed Notice of Termination (Attachment C) along with their monitoring reports certifying that the project meets the following definition of a completed project:
  1. The project has been completed according to the project description included in the NOI as well as any needed corrective action identified from monitoring inspections, any compensatory mitigation work has been implemented as is self-sustaining, and the site is stabilized;
  2. Sites have been treated such that no potential for waste discharges from the Project in violation of the Basin Plan.
  3. The project meets all applicable characteristics of storm-proofed roads from the Notice of Intent.
  4. Earthen materials and waste have been disposed of properly.
- f. Upon receipt of a Notice of Termination, Regional Water Board staff may request a site inspection to verify that the project meets the definition of a completed project from section VI.e above. Coverage under the Order will be considered terminated upon receipt by the Discharger of a letter signed by the Regional Water Board Executive Officer affirming that the project has been unenrolled.

## **VII. PETITION**

Any person aggrieved by this action of the Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the

thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. [Copies of the law and regulations applicable to filing petitions](#) may be found on the Regional Water Board's website: ([http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)) or will be provided upon request.

**Certification:**

I, Valerie M. Quinto, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California North Coast Regional Water Quality Control Board, on April 4, 2024.

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Valerie Quinto  
Executive Officer

Attachments:

- A. General Mitigation Measures
- B. Notice of Intent
- C. Notice of Termination Form
- D. Monitoring Inspection Form
- E. Compensatory Mitigation Guidance
- F. Supplemental Order Findings

### References

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