

PUBLIC COMMENTS RECEIVED ON PROPOSED ORDER R3-XXXX-XXXX

AND STAFF RESPONSES

REGIONAL GENERAL WASTE DISCHARGE REQUIREMENTS FOR VEGETATION OR SEDIMENT REMOVAL OR MANAGEMENT ACTIVITIES FOR FIRE OR FLOOD RISK REDUCTION

January 16, 2024

The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) released the draft *Regional General Waste Discharge Requirements for Vegetation or Sediment Removal or Management Activities for Fire or Flood Risk Reduction* for public comment on June 3, 2024. The Central Coast Water Board received comments from the stakeholders listed below. Comments and Central Coast Water Board responses are included in this document, organized by commenter. Comments are direct transcriptions from the comment letters.

- Alan Peters (Peters)
- Elliot Chasin, Senior Environmental Science Supervisor, California Department of Fish and Wildlife (CDFW)
- Sam Flanagan, Aquatic Resources Program Lead, Bureau of Land Management (BLM)
- George Gentry, Senior Vice President, California Forestry Association (CFA)
- Dan Turner, Executive Director, San Luis Obispo County Fire Safe Council (SLO Co. FSC)
- Jondi Gumz, Editor, Times Publishing Group (Times)
- Steve Auten, Owner, Auten Resource Consulting (ARC)
- Jane Manning (Manning)
- Antonella Gentile, Resource Planner, Santa Cruz County Flood Control Division (Santa Cruz Co. FCD)
- Andrew Raaf, Environmental Manager, Santa Barbara County Flood Control District (Santa Barbara Co. FCD)
- Jon Barrett, District Manager, Tehama County Resource Conservation District (Tehama Co. RCD)
- Lenya Quinn-Davidson, Fire Network Director, University of California Agriculture and Natural Resources (UCANR – Quinn-Davidson)
- Alison Deak, Fire Advisor for Mariposa, Madera and Fresno Counties, University of California Agriculture and Natural Resources (UCANR – Deak)
- Tim Hyland, Natural Resource Program Manager, Santa Cruz District of California State Parks (State Parks)
- Sara Jones, Forester, Mason, Bruce & Girard, Inc. (Jones)
- Joe Tyler, Director, California Department of Forestry & Fire Protection (CAL FIRE)
- Timothy Federal, Forest Health and Fire Resiliency Program Manager, San Mateo Resource Conservation District (San Mateo RCD)
- Jared Childress, Program Manager, Central Coast Prescribed Burn Association (CCPBA)

- Lisa Lurie, Executive Director, Resource Conservation District of Santa Cruz County (Santa Cruz Co. RCD)
- Norm Groot, Executive Director, Monterey County Farm Bureau (Farm Bureau)
- Angela Richman, Natural Resources Practitioner, Central Coast Prescribed Burn Association (Richman)
- Karen Holl, Professor of Environmental Studies, University of California, Santa Cruz (Holl)
- Beth Roybal, Member, Rancho Aromitas Firewise Community (Roybal)
- Caitlin Grace (Grace)
- Nick Goulette, Executive Director, Watershed Research and Training Center (WRTC)
- Amy Palkovic, Senior Environmental Scientist, Monterey District of California State Parks (Palkovic)
- Brendan Clark, Supervising Water Resources Engineer, County of San Luis Obispo Public Works Department (SLO Co. PWD)
- Jared Childress, Program Manager, Central Coast Prescribed Burn Association (Childress), with comments echoed by:
 - Vincent Woodall
 - Bill Fidler
 - Chloe Schneider
 - Lynn Sestak
 - Ashkan Yahyaie
 - Brian Peterson
 - Cordi Craig
 - Siena Watson
 - David Benterou
 - Georgia Vasey
 - Barbara Wolfson
 - Morgan Galliano
 - Leah Stern
 - Chuck Stein
 - Laura McLendon
 - Denis De Ceuster
 - Jannike Allen
 - Sophia Marquez
 - Dina Hoffman
 - Serena Myjer
 - Katie Scott
 - Michael Horn
 - Dave Passovoy
 - Margo Robbins
 - Alex Jones
 - Joseph Stewart
 - Sierra Hampton
 - Tyler Feld
 - Adam Hensleigh
 - Tamia Marg-Anderson
 - Richard Mazarella
 - Philip Knight
 - Amber Lennon
 - Emily Sharp
 - Darrow Feldstein
 - Joanne Hale

COMMENTS AND RESPONSES

Peters - 1

Definition of “waste” is unclear and subject to interpretation since it must be “associated with human habitation, or “of human origin”. Waste could therefore be limited to that immediately around a dwelling or could be interpreted by some to include anything from any type of human activity, as mentioned in the Order. Likewise, “of human origin” could be interpreted to exclude natural wildland vegetation, soil, water, and air which would exist in the absence of humans.

Staff Response to Comment Peters – 1

As described in the Order, the term “waste” is defined in California Water Code section 13050(d). The Regional General Waste Discharge Requirements for Vegetation or Sediment Removal or Management Activities for Fire or Flood Risk Reduction (Order) uses the term “waste” in accordance with that definition and consistent with Central Coast Water Board and

State Water Resources Control Board standard practice. The definition of waste is discussed in the Final Report of the Study Panel to the California State Water Resources Control Board (1969), Attorney General opinions, and court decisions interpreting the definition. The definition is not limited to activities in the areas immediately near a dwelling. Activities regulated by the Order are identified in the first sentence of the Order (section I.A). The Order regulates “vegetation and sediment removal and management activities disturbing or otherwise occurring within waters of the state and riparian areas for the purpose of fire or flood risk reduction.” The Order does not regulate activities or discharges beyond those described in section I.A and should not be interpreted as such. To further reiterate this point, additional language has been added to section I.A footnotes.

Peters - 2

Fire risk reduction activities are clearly included in the Order. It is unclear if the Order is applicable to these same activities where used for purposes (objectives) other than fire risk reduction such as habitat restoration, range improvement, or invasive weed control.

Staff Response to Comment Peters - 2

The Order regulates “vegetation and sediment removal and management activities disturbing or otherwise occurring within waters of the state and riparian areas for the purpose of fire or flood risk reduction,” as described in section I.A. To further reiterate this point, additional language has been added to section I.A footnotes.

Peters - 3

Category A includes CAL FIRE defensible space compliance, but only if limited to the minimum required by code. Any additional defensible space desired due to site conditions or recommended by the fire department is Category B. Defensible space required in cities and by local ordinance is not included in Category A. For consistency, all defensible space work in all jurisdictions should be included in Category A.

Staff Response to Comment Peters - 3

Category A activities also include prescribed fire conducted in accordance with standard basic protective measures, regardless of discharger. The draft order has been edited to clarify this point at section II.A.1. In addition, the draft order has been edited at section II.A.2 to also include defensible space activities conducted in accordance with municipal code into Category A. Information has also been added to section II.A.2 to clarify that conditions to limit disturbance to the minimum required only apply within surface waters of the state and riparian areas.

Peters - 4

All fire risk reduction activities not considered Category A are considered notifying Category B which requires significant time, expertise, and expense to produce the detailed documents and field work required including maps, watercourse/riparian delineation, delineation of sensitive resources and buffers, Notice of Intent (NOI), applicable activity management plan(s), on-the-ground flagging, monitoring, and reporting (ROWD). It is unclear how this supports increased pace and scale since the average resident does not have the resources or expertise to complete this work.

Staff Response to Comment Peters - 4

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. For example, all prescribed burn projects will be

category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. As a result, Category B projects are primarily large municipal fire risk reduction and similar projects that clear substantial areas of surface waters of the state and riparian areas of vegetation. In recent years, these have been relatively rare within the region (i.e., one or two projects annually). Placement of these projects in Category B is warranted due to their scope and impact on beneficial uses of surface waters of the state.

Peters - 5

90-day notice - In addition to all of the required documentation listed above, NOI's must be submitted to CCRWQCB 90 days in advance of operations. It may be unlikely that CCRWQCB will be able to promptly review and approve tens of thousands of applications, which will effectively shut down proposed operations.

Staff Response to Comment Peters - 5

Central Coast Water Board staff does not expect tens of thousands of projects to be enrolled under this Order. This comment appears to be based on a misunderstanding of the scope of the Order. Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. The Order only applies to work in surface waters of the state and riparian areas. All prescribed burn projects will be Category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. As a result, Category B projects are primarily large municipal fire risk reduction and similar projects that clear substantial areas of surface waters of the state and riparian areas of vegetation. In recent years, these have been relatively rare within the region (i.e., one or two projects annually). As such, the projected volume of notices of intent is expected to be manageable and Central Coast Water Board staff is prepared to ensure that notices of intent are reviewed and approved in a timely manner.

The intention of the notice period is to provide sufficient time for thorough review and to address any potential issues before the commencement of operations, thereby ensuring compliance with the Order and protection of water quality and beneficial uses. Central Coast Water Board staff are committed to preventing delays and facilitating efficient project implementation. In response to the concerns raised in the comment, we have changed the notification period to 60 days for high tier projects. This adjustment acknowledges the need for a more flexible timeline while still allowing adequate time for thorough review and compliance checks. Likewise, the notification period for medium and low tier projects has been reduced to 45-days and 21-days, respectively. See section XII.A.3.

Peters - 6

The entire burden of this documentation falls to the landowner (i.e. discharger). At a minimum, the CCRWQCB should provide a detailed webmap showing where the order applies and the geographic extent of riparian zones, watercourses, groundwater, and required buffers. All required documentation should be made available on a user-friendly web-based interface.

Staff Response to Comment Peters - 6

To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated with additional information). Staff will also develop a figure landowners can use as a quick reference to assist with identification. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply.

Peters - 7

Project activities under this order cannot be conducted during rain events or within 24-hrs of a prediction of a 25% chance of rain. Work could therefore not occur during these lowest fire danger periods, or take advantage of rain events to abate dust from equipment and vehicles, promote safe pile burning, promote optimal smoke dispersal immediately receding storms, and many other benefits of wetting rains for fuel reduction projects. For example, road grading of fuelbreak roads and truck trails maintained for fire agency access can only be conducted during winter months when there is adequate soil moisture.

Many soil types will not support heavy equipment during the driest months of the year due to lack of soil cohesion. Lacking moisture, these soils are similar to working in deep flour which results in significant soil disturbance and higher erosion, especially wind erosion (dust). Allowing year-around work is critical to allow operators to work during optimal site conditions, including heavy equipment work during times of adequate moisture content in the soil.

The work period for heavy equipment for vegetation removal is limited to fire season months of May through November. This limitation is dangerous by forcing tens of thousands of "dischargers" to conduct high-risk activities only during fire season, which will likely be considered negligence when wildfires inevitably occur. This requirement is in direct opposition to increasing the pace and scale of fuel reduction. The goal of most fuel reduction activities, especially defensible space, is to complete operations prior to fire season which starts May 1st in SLO County. Due to fire season constraints and numerous other seasonal limitations on conducting this work, it is critical to promote work year-round during optimal site-specific conditions.

Staff Response to Comment Peters - 7

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction. The prohibition of project activities during predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

Peters - 8

Throughout the Order, work is limited to the minimum level possible. This is not consistent with many land management objectives where the desire is to conduct the maximum amount of work feasible. Increasing pace and scale requires a substantial increase over the minimum level. As an example, additional defensible space over minimal code requirements is often desirable and appropriate.

Staff Response to Comment Peters - 8

The Order only applies to work conducted in surface waters of the state and riparian areas. In addition, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. To protect the beneficial uses of waters of the state, the Order requires the minimum work be conducted to achieve project goals. To protect beneficial uses, work within surface waters of the state and riparian areas should be justified and unnecessary work avoided. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the State Water Resources Control Board's *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. Section II.A.2 of the Order has been edited to allow additional defensible space beyond minimal code requirements when recommended by the agency responsible for fire protection.

Peters - 9

The Order requires use of the least impactful methods for vegetation removal. The least impactful method will always be hand-crew methods, whereas the most efficient and cost-effective methods will usually be mechanical methods. In many cases, the least impactful method is also the most expensive. Project proponents usually prefer to use the most cost-effective method that achieves the desired outcome. Most grant funding requires the most cost-effective approach and the prudent use of public funds does not support the costliest method even if the least impactful.

Staff Response to Comment Peters - 9

The Order only applies to work conducted in surface waters of the state and riparian areas. To protect these valuable resources, the Order requires use of the least impactful methods that can practically achieve project goals. If a more protective method is not practical to achieve the project's goals, more impactful methods may be used. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the State Water Resources Control Board's *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. It is also worth noting that section I.A of the Order has been modified to limit application of the Order to local responsibility areas.

Peters - 10

The Order limits ladder fuel pruning to a maximum of six feet. Appropriate pruning height should be based on fuel type and several site-specific considerations, and in most situations and fuel types on the Central Coast should be a minimum of six feet.

Staff Response to Comment Peters - 10

Central Coast Water Board staff recognizes that appropriate heights of ladder fuel pruning can vary based on site-specific conditions. The permit language at section VII.A.3 has been modified to allow flexibility in pruning heights, ensuring ladder fuel removal may exceed eight feet height when necessary, based on professional judgment and local conditions.

Peters - 11

Page 3 - Section I.A. - Draft Order Text: Definition of "Waste" per WAT §13050

Comment #1: "Waste" as defined must be "associated with human habitation", or "of human origin". The typical dictionary definition of "Habitation" refers to a community or dwelling. To meet the definition of waste, it would seem that for vegetation removal to be considered waste, it must therefore be within or around a community, building or improvement such as a public road and managed as a component of that habitation. Another qualifying statement in the definition, "of human origin", would seem to exclude wildland vegetation and soil, since these are not man-made, but are natural. Wildland vegetation growing in natural wildland areas not managed as a direct component of a habitation, and not of human origin, would NOT meet the definition of waste and would therefore NOT be regulated under this order. Landowners in general cannot make the determination if activities are associated with human habitation; therefore, maps and spatial data should be provided by the Water Board to assist project proponents with determining the geographic extent of this Order and documents should be made available defining which specific activities are considered to generate waste and how this determination was made.."

Staff Response to Comment Peters - 11

As described in the Order, the term "waste" is defined in California Water Code section 13050(d). The definition includes the broad phrase "associated with human habitation," which is inclusive of human land management activities. The discharge of vegetative and sediment material to surface waters of the state resulting from vegetation and sediment management activities conducted for the purpose of reducing fire risk posed to human land uses is a discharge of waste associated with human habitation. The Order uses the term "waste" in accordance with the California Water Code definition and consistent with Central Coast Water Board and State Water Resources Control Board standard practice. For example, the State Water Resources Control Board's *General Waste Discharge Requirements for Vegetation Treatment Activities Conducted in Conformance with the California Vegetation Treatment Program, Order WQ 2021-0026-DWQ* regulates vegetation treatment activities throughout the state responsibility area. The definition of waste is discussed in the Final Report of the Study Panel to the California State Water Resources Control Board (1969), Attorney General opinions, and court decisions interpreting the definition. The definition is not limited to activities at a community or dwelling, but broadly includes waste associated with human activities. To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated with additional information). Staff will also develop a figure landowners can use as a quick reference to assist with identification. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply.

Peters - 12

Page 3 - Section I.A. - Draft Order Text: Definition of waters of the state

Comment #2: Definition includes groundwater which is present everywhere on the entire landscape and is impossible for the lay-person to delineate on a map. Therefore, the assumption must be that the entirety of the CCRWQCB jurisdiction is included under this order? If not the entirety of the CCRWQCB jurisdiction, detailed maps and spatial data must be

provided to delineate precisely where the order applies since landowners do not have the ability to determine the presence and extent of groundwater aquifers and applicable “waters”. Most landowners also do not generally have the ability to delineate the precise extent of riparian areas and agency-defined classifications of watercourses which can vary from year-to-year. Regulatory agencies including SWRCB, CDFW, CAL FIRE, DWR and others use many different definitions, inconsistent and diverse terminology for waters of the State which are difficult for many landowners to decipher including stream, watercourse, ephemeral, episodic, Class I-II-II-IV, streambed, bank, channel, ground/surface/subsurface water, seasonal, perennial, stormwater, etc.

Staff Response to Comment Peters - 12

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto other land areas that may eventually enter groundwater. The word “surface” has been added to the term “waters of the state” throughout the Order. To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated). The definition of waters of the state and additional information has also been added to Attachment C. Staff will develop a figure landowners can use as a quick reference to assist with identification of surface waters of the state and riparian areas. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection’s State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

Peters - 13

*Page 3 - Section I.A. - Draft Order Text: Activities for the purpose of fire risk reduction
Comment #3: This order seems to apply primarily to activities conducted for the stated purpose of fire/flood risk reduction. All of the same activities may also be conducted for purposes other than fire risk reduction including habitat restoration, ecological restoration, range improvement, invasive weed control, etc. For example, large prescribed burns are often conducted to improve the quality of forage for livestock and not necessarily for fire hazard reduction. Prescribed burns are also conducted to reduce invasives such as medusahead grass, but not for fire hazard reduction. Some activities may have fire risk reduction as a secondary benefit but not the primary objective. Are the same activities such as prescribed burning that are conducted for other purposes besides fire risk reduction covered by this proposed Order? If so, do the regulations differ depending on the specific objective of the activity? If objectives other than fire reduction are included, please specify which activities and objectives are included and how these may be regulated differently.*

Staff Response to Comment Peters - 13

The Order regulates vegetation and sediment removal and management activities conducted for the primary purpose of fire or flood risk reduction. It does not regulate such activities conducted for other primary purposes. Clarifying language has been added at footnote 4.

Peters - 14

Page 4 - Section I.C. - Draft Order Text: The Board shall determine whether an activity is eligible . . .

Comment #4: A detailed list of activities and a detailed map of the geographic extent of this Order delineating “waters of the State” as defined, should be provided to assist landowners in determining if an NOI is required. Most landowners cannot make this determination since “waters of the State” includes groundwater and since formal watercourse classifications and delineation of riparian areas requires subject matter expertise. Since “waters of the State” includes groundwater and “areas that could run off to waters”, the Order appears to be applicable across the entire landscape.

Staff Response to Comment Peters - 14

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto land that may eventually enter groundwater. The word “surface” has been added to the term “waters of the state” throughout. The Order does not state that “areas that may run off to waters” are waters of the state; it states that such areas should be stabilized when disturbed. To provide clarity, the term “areas that may run off to waters” has been removed from section V.C.4. Determination of activities regulated by the Order is not reliant on assessment of associations to human habitation and origins of material discharged. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated). The definition of waters of the state and additional information has also been added to Attachment C. Staff will develop a figure landowners can use as a quick reference to assist with identification of surface waters of the state and riparian areas. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection’s State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

Peters - 15

Page 5 - Section II.A. - Draft Order Text: Category A activities are non-notifying as follows . . .

Comment #5: Listed activities include some CAL FIRE programmatic EIRs including CMP/VMP and CalVTP. However, the California Forest Improvement Program (CFIP) program is not included. Exclusion of CFIP from Category A, requiring inclusion of CFIP as Category B, and the significant additional workload this would necessitate, runs counter to the goal of increased pace and scale.

Staff Response to Comment Peters – 15

The Order regulates activities with the primary purpose of fire or flood risk reduction. Since California Forest Improvement Program (CFIP) projects typically have broader forest management objectives and not primarily fire or flood risk reduction objectives, they typically will not require enrollment in the Order. Additionally, the coverage area for this Order has been reduced to local responsibility areas, which further limits of its applicability to CFIP projects. If a CFIP project is within a local responsibility area and requires enrollment due to specific objectives related to fire or flood risk reduction, it will be categorized according to the Order’s tiering system. The updated Order recategorizes some low-impact activities to Category A (non-notifying) and reassigns certain medium tier activities to the low tier. These adjustments are intended to simplify the process for dischargers while still fulfilling the Order’s objective to protect surface waters of the state and riparian areas.

Peters - 16

Page 6 - Section II.A.2. - Draft Order Text: defensible space pursuant to CCR 14 §1299 or §15304(i)

Comment #6: Within SRA areas, defensible space is required for habitable structures at all times by PRC 4291. Powerline clearance is required by PRC 4292 and PRC 4293. These defensible space regulations enforced by CAL FIRE are not listed so is this work considered “notifying” under Category B since it is not listed under the non-notifying Category A? Likewise, defensible space in LRA and cities is required by several local weed abatement ordinances and other policies. If considered notifying under Category B, there will be tens of thousands of NOIs required. Defensible space work in LRA is not specified under Category A so it is therefore Category B, requiring the full NOI notification process. This requirement for cities and unincorporated communities creates significant cost and workload for tens of thousands of residents which does not support an increase in pace and scale of fuel reduction.

Staff Response to Comment Peters - 16

The Order has been edited at section II.A.2 to also include defensible space activities conducted in accordance with municipal code into Category A, in addition to activities conducted under Public Resource Code sections 4291-4293. Information has also been added to section II.A.2 to clarify that conditions to limit disturbance to the minimum required only apply within surface waters of the state and riparian areas, with allowance for additional activities as recommended by fire agencies.

Peters - 17

Page 6 - Section II.A.3. - Draft Order Text: defensible space activities limited to the minimum required

Comment #7: Fire departments and fire prevention experts commonly recommend defensible space treatments that greatly exceed the minimum required by regulations. Depending on a number of facts including vegetation type, slope, aspect, fire history, response capabilities, etc., the minimum required by law is not adequate or appropriate for many improvements. For example, defensible space may not be required at all for communication facilities, or other structures such as barns and outbuildings, but several hundred feet of defensible space treatments may be appropriate and recommended by fire experts. Wildfire experts often recommend several hundred feet of additional defensible space in steep, fire-prone areas. This limitation would therefore create a large number (thousands) of new Category B notifying activities under this Order for those landowners and for projects attempting to exceed minimum code requirements in order to improve or provide additional defensible space. The requirement creates significant workload and expense which does not support increased pace and scale of fuel reduction.

Staff Response to Comment Peters - 17

Information has also been added to section II.A.2 to clarify that conditions to limit disturbance to the minimum required only apply within surface waters of the state and riparian areas, with allowance for additional activities as recommended by fire agencies.

Peters - 18

Page 6 - Section II.A.3. - Draft Order Text: CALFIRE activities that are CEQA exempt

Comment #8: A significant number of activities where CAL FIRE is lead agency are not exempt, not covered by an EIR, but are addressed under a CEQA Initial Study. Depending on the final determination, Negative Declarations or Mitigated Negative Declarations are often adopted. Since non-exempt activities are not listed under Category A, this order would therefore consider these activities Category B notifying activities requiring the potential “discharger” to follow the NOI process? This requirement creates significant additional workload and expense which does not support increased pace and scale.

Staff Response to Comment Peters - 18

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. First, only projects within surface waters of the state and riparian areas are addressed by the Order. In addition, all prescribed burn projects will be category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. Since most projects except for the most impactful will already fall under Category A, consideration of project California Environmental Quality Act (CEQA) status is unnecessary in determining Category A or B status.

Peters - 19

Page 9 - Section III.A.7. - Draft Order Text: Project activities that are covered by this Order are expected to result in discharges of waste . . .

Comment #9: By definition, “waste” must be associated with human habitation, or of human origin, which by most common definitions would include dwellings, and could include other anthropogenic components such as communities and infrastructure. Many vegetation management activities conducted for fire hazard abatement occur in wildland areas occupied by natural wildland vegetation, not associated with human habitations. Wildland vegetation and soil are natural and not of human origin. This order should be revised to clearly decipher which vegetation management activities are associated with human habitation or of human origin, which are not, and how this determination was made. Other than dwellings, what defines human habitation?

Staff Response to Comment Peters - 19

The Order regulates vegetation and sediment removal and management activities disturbing or otherwise occurring within surface waters of the state and riparian areas for the purpose of fire or flood risk reduction, where the activities may cause or threaten to cause a discharge of waste to waters of the state. As described in the Order, the term “waste” is defined by California Water Code section 13050(d). The definition includes the broad phrase “associated with human habitation,” which is inclusive of human land management activities. The discharge of vegetative and sediment material to surface waters of the state as a result of vegetation and sediment management activities conducted for the purpose of reducing the fire risk posed to human land uses is a discharge of waste associated with human habitation. The definition of waste is discussed in the Final Report of the Study Panel to the California State Water Resources Control Board (1969), Attorney General opinions, and court decisions interpreting the definition. The definition is not limited to activities in the areas immediately near a dwelling. The Order uses the term “waste” in accordance with the California Water Code definition and consistent with Central Coast Water Board and State Water Resources Control Board standard practice. For example, the State Water Resources Control Board’s *General Waste Discharge Requirements for Vegetation Treatment Activities Conducted in Conformance with the California Vegetation Treatment Program, Order WQ 2021-0026-DWQ* regulates vegetation treatment activities throughout the state responsibility area.

Peters - 20

Page 9 - Section III.A.7. - Draft Order Text: These discharges will occur in quantities and at locations and times that would not occur in natural conditions . . . and are therefore associated with human activity and habitation.

Comment #10: Untrue statement. Catastrophic wildfires are a natural condition that produce discharges of soil, vegetation, smoke, chemicals, burned buildings/vehicles, etc. that exceed exponentially the potential man-made discharges associated with vegetation management activities. The word human “activity” is NOT included in the §13050 definition of waste and as used here seems to infer that any human activity could meet the definition of “waste”. Natural wildland vegetation and soil are not of human origin and would be present in the absence of humans, therefore not waste. Human activities alone in natural wildland areas are not obviously included in the definition of “waste”, and are not necessarily included under this Order. Unlike natural events such as wildfires, quantities and timing of any discharges from vegetation management activities can be carefully planned and implemented to minimize any potential impacts to the environment.

Staff Response to Comment Peters - 20

As described in the Order, the term “waste” is defined by California Water Code section 13050(d). The definition includes the broad phrase “associated with human habitation,” which is inclusive of human land management activities. The discharge of vegetative and sediment material to surface waters of the state as a result of vegetation and sediment management activities conducted for the purpose of reducing the fire risk posed to human land uses is a discharge of waste associated with human habitation. The Order uses the term “waste” in accordance with the California Water Code definition and consistent with Central Coast Water Board and State Water Resources Control Board standard practice. For example, the State Water Resources Control Board’s *General Waste Discharge Requirements for Vegetation*

Treatment Activities Conducted in Conformance with the California Vegetation Treatment Program, Order WQ 2021-0026-DWQ regulates vegetation treatment activities throughout the state responsibility area.

Peters - 21

Page 10 - Section III.B.2. - Draft Order Text: Activities regulated by this Order will occur in surface waters of the state and associated riparian areas

Comment #11: "Surface" waters of the state stated here is different than "waters of the state" stated above in page 3, I.A. Waters of the state defined by §13050 includes groundwater, which occurs throughout the entirety of the State. This order also refers to "areas that may run off to", which seems to include the entire landscape. These statements should be reconciled to indicate if groundwater, surface water and riparian areas are all included (as stated on p. 3) or just surface water and riparian areas (as stated on p. 10). Landowners generally do not have the resources and expertise to determine the geographic extent of "waters of the State" or to classify and delineate watercourses and riparian zones as required by this Order. Detailed maps and GIS spatial data of groundwater aquifers, surface waters, and riparian areas must be provided by the CCRWQCB for reference in order for project proponents to know precisely where this Order is geographically applicable.

Staff Response to Comment Peters - 21

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto land that may eventually enter groundwater. The word "surface" has been added to the term "waters of the state" throughout. To provide clarity, the term "areas that may run off to waters" has been removed from section V.C.4. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated). The definition of waters of the state and additional information has also been added to Attachment C. Staff will develop a figure landowners can use as a quick reference to assist with identification of surface waters of the state and riparian areas. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

Peters - 22

Page 16 - Section IV.C. - Draft Order Text: Project activities shall not cause loss of canopy that contributes to an increase in temperature . . .

Comment #12: Does this mean ambient air temperature or water temperature of surface waters? Does canopy include trees, shrubs and herbaceous plants that shade the soil or just certain types of vegetation?

Staff Response to Comment Peters – 22

The Order has been modified to specify an "increase in natural receiving water temperature." This condition is based on objectives contained in the *Water Quality Control Plan for the Central Coastal Basin*. In this context, receiving water refers to the surface waters of the state within the project area. Canopy cover includes canopy from trees as well as other strata providing shading.

Peters - 23

Page 17 - Section V.B.1. - Draft Order Text: Dischargers shall limit disturbance and removal of vegetation to not exceed the minimum necessary . . .

Comment #13: The extent of vegetation removal is typically determined by available resources, such as funding, crews, equipment, suitable weather. etc. This measure to require minimal treatment is contrary to the goals of most fire prevention projects. In most situations, additional vegetation removal above the minimum helps to provide additional fire prevention benefits. For example, 100 feet of defensible space around structures is the usual minimum standard. However, site-specific conditions including slope, aspect, fuel conditions, and other concerns often necessitate additional clearance to achieve a higher standard of protection, consistent with recommendations by fire agencies. The minimum defensible space standard is usually recommended only in situations where additional clearance is not necessary or feasible. This limitation is contrary to Executive Orders, Fire Prevention Plans, and landowner objectives where the hope is to increase the pace and scale of treatments over and above the minimum. Once minimum treatments have been accomplished, additional available resources are typically applied in strategic locations to augment completed work. The optimal amount of fuel reduction would be the maximum amount that is feasible.

Staff Response to Comment Peters - 23

This section of the Order requires that work within surface waters of the state and riparian areas be limited to the minimum necessary to meet project goals. The section does not stipulate that project goals must equate with the minimum standards identified by law. Project goals in various cases may exceed the minimum required. Additional work in strategic locations may align with project goals. However, once project goals are achieved, additional work beyond what is needed in surface waters of the state and riparian areas should be limited to avoid unnecessary impacts to beneficial uses of those resources.

Peters - 24

Page 17 - Section V.C.2. - Draft Order Text: All materials and supplies necessary for implementing effective erosion and sediment control must be on-site and ready for use at the start of the activity and must remain in supply and ready at all times so they are immediately available . . .

Comment #14: This measure is not feasible in many situations. For example, many prescribed burns occur weeks or months prior to fall rains. Some prescribed burn units may require waterbars constructed by hand crews or dozers. It is not feasible or necessary to leave the hand crew or dozer on-site from the beginning of the project until weeks or months later when it is time to install the waterbars. Installing waterbars or other measures immediately after burning or vegetation removal operations is not always feasible or appropriate. This requirement is excessive and cost-prohibitive.

Staff Response to Comment Peters - 24

This is a standard requirement across many Central Coast Water Board orders and is intended to ensure that common best management practices materials such as straw wattles remain on-site and ready for use when needed. The language has been revised in section V.C.2 to require that materials be available when needed, such as before anticipated rain events. This change supports timely and cost-effective erosion and sediment control without imposing unnecessary burdens.

Peters - 25

Page 17 - Section V.C.4. - Draft Order Text: All ground disturbance to . . . areas that may run off to water of the State . . .

Comment #15: Including the verbiage "Areas that may run off to" a watercourse or riparian area is all-inclusive and effectively includes the entire land mass since rain will run off from the highest point on land to areas downhill. This requirement effectively requires stabilization of all disturbance on the entire land mass. Inclusion of this verbiage is not consistent with the definition of "waters of the State".

Staff Response to Comment Peters - 25

The term "areas that may run off to waters" has been removed from section V.C.4.

Peters - 26

Page 17 - Section V.C.4. - Draft Order Text: All ground disturbance . . . must be stabilized . . . promptly . . . Any area left inactive for 14 days must be stabilized.

Comment #16: This measure is not feasible. For example, a 1,000-acre prescribed burn cannot be artificially stabilized. Artificial revegetation immediately following a fuel reduction project would defeat the purpose of the project by adding unnatural fuel and in most situations is not appropriate or feasible. The amount of vegetation present following completion of most fuel reduction projects is typically the maximum amount of vegetation necessary to achieve project objectives. Revegetation would therefore increase the fire hazard present in direct opposition to project objectives. The process of natural succession occurs quickly in most areas of the State resulting in natural revegetation over a period of several months.

Staff Response to Comment Peters - 26

This requirement was not intended to apply to activities that do not disturb soil, such as prescribed burns. It is intended to address soil disturbing activities such as blading of access routes. Section V.C.4 has been edited for clarification. In addition, section V.C.4 has been edited to require control of erosion, without directly requiring revegetation, in order to support fire risk reduction gains. However, revegetation can occur with low fire risk species such as certain native grasses. Bare soil areas, particularly on slopes, can erode rapidly and discharge sediment to creeks, impairing beneficial uses.

Peters - 27

Page 17 - Section V.C.5. - Draft Order Text: After project activities, disturbed areas shall be revegetated . . .

Comment #17: This measure is not feasible and not consistent with most fuel reduction objectives. Artificial revegetation is not possible, cost prohibitive, and in most situations is contrary to the objective of the vegetation removal operation. Typical fuel reduction projects remove vegetation to the extent that was designed by project stakeholders. Natural succession occurs to some degree in all situations and periodic vegetation removal in successive years is often necessary to maintain fire prevention objectives. For most fuel reduction projects, the last thing that should occur following vegetation removal is revegetation to increase the fuel load on the project area. Following a 1,000-acre prescribed burn, this condition would require artificial revegetation of 700 acres, which is not feasible and contrary to the goal of the fuel reduction project.

Staff Response to Comment Peters - 27

This requirement was not intended to apply to activities that do not disturb soil, such as prescribed burns. It was intended to address soil disturbing activities such as blading access routes. Section V.C.5 has been removed, though requirements to implement erosion control

measures remain in section V.C.4. Bare soil areas, particularly on slopes, can erode rapidly and discharge sediment to creeks, impairing beneficial uses.

Peters - 28

Page 18 - Section V.D.1. - Draft Order Text: Discharger shall not conduct project activities during rain events or within 24 hours of a predicted rain event.

Comment #18: This measure is not feasible and is contrary to the objectives of many types of fire prevention activities, especially certain types of prescribed burning. Rain is often a significant benefit to certain project activities, especially where dust and fire danger are issues. Rain can help abate dust from vehicles and equipment, and can temporarily reduce the fire danger for operations that might otherwise have high fire danger conditions. Equipment operations during fire season are often limited or suspended by fire agencies due to fire danger conditions. Rain events that dampen the soil often allow equipment operations to resume. Dozer crushing followed by prescribed burning is a common practice. Many such operations plan to conduct the prescribed burning during damp weather when only the slash within the crushed areas will burn, therefore greatly reducing the risk. Equipment work during damp conditions is often targeted near communities or sensitive receptors as part of a dust minimization measure to protect air quality. Pile burning is often conducted during rain events in order to improve safety, minimize scorching of nearby vegetation and to take advantage of optimal smoke dispersal conditions which typically occur during rain events due to unstable conditions and southerly winds. A common practice is to tarp burn piles and conduct burning at a later time during wet conditions.

Staff Response to Comment Peters – 28

The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for soil disturbing activities, such as mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments. Such activities have the potential to create erosion and their restriction during rain events serves to reduce discharges of sediment to surface waters of the state. The updated language does not limit prescribed fire activities during rain events or predicted rain events.

Peters - 29

Page 18 - Section V.D.2. - Draft Order Text: The work window . . . is from June 1 to September 30. The work window for using heavy equipment is from May 1 to November 30.

Comment #19: This measure effectively limits all such work to occur during fire season and peak fire danger months, which is in direct opposition of most fire prevention regulations, guidelines, and recommendations. Wildland fire agencies typically focus on wildfire response between May 1 and November 1, shifting to a greater focus on fire prevention and fuel reduction from November through April.

- Requiring all work to occur during these peak fire season months would greatly increase the fire danger.*
- Requiring all work to occur during these peak fire season months would significantly increase the cost of operations since supplemental fire suppression equipment and personnel will be required on-site that would not be necessary outside of fire season.*
- Conducting this type of work during high fire danger periods can be considered negligent, which can result in civil and criminal penalties.*

- *Confining all work to peak fire season months as proposed is not consistent with Executive Orders cited, and will prevent any increase in the pace and scale of fire prevention efforts since many personnel and equipment resources are committed to wildfire response during fire season months. If the work period is limited to peak fire season months as proposed, available work days will be effectively limited to a few days and weeks when fire danger is relatively low, since most types of fuel reduction work will not occur during summer months. The statewide goal of a million acres or more per year cannot be achieved in just a few weeks during fire season when fire danger is low.*
- *Most fire prevention projects including mastication, prescribed burning and equipment use of any kind are curtailed or prohibited during fire season. Many policies and procedures such as Project Activity Levels (PAL) are in place to curtail or suspend certain activities during high fire danger periods.*
- *On the Central Coast during most fire seasons, CAL FIRE Unit Chiefs institute a complete burn ban which eliminates the use of heavy equipment for prescribed burning and associated activities during the proposed work window in this Order.*
- *The proposed work window would eliminate CAL FIRE resources from conducting fuel reduction work since crews and equipment are typically committed to wildfire response during peak fire season months. CAL FIRE resources, including heavy equipment, typically conduct more fire prevention activities from November through April, outside of peak fire danger months when fire activity is diminished.*
- *Increasing the pace and scale of fuel reduction efforts requires a year-round work window so that project proponents can take advantage of weather and soil conditions that are safe and prudent.*
- *Many types of activities require work during winter months such as seasonal restrictions for avoidance of nesting and blooming periods.*
- *Increasing the pace and scale of fuel reduction requires a year-round work window to take advantage of suitable conditions during periods of low fire danger, such as extended dry period during winter months.*

Staff Response to Comment Peters - 29

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction.

Peters - 30

Page 19 - Section V.E.4. - Draft Order Text: Access and use by non-project vehicles and heavy equipment shall be restricted.

Comment #20: Many fuel reduction activities occur on rural ranches where landowners use vehicles and equipment as they wish for their own purposes. "Non-project" vehicles and equipment such as used by ranchers are not under the control of the project proponent in most situations and therefore cannot be restricted. Most fuel reduction projects are dependent on cooperators willing to provide access to their private property. Attempts to control non-project vehicles and equipment will likely result in project-related equipment and personnel being asked to leave the area which will not support increased pace and scale.

Staff Response to Comment Peters - 30

This requirement is specific to activities with the primary purpose of fire risk reduction. It is intended to exclude non-project vehicles from temporary access roads created specifically for project ingress and egress. The language has been modified for clarity.

Peters - 31

Page 19 - Section V.F.1. - Draft Order Text: Staging of equipment and vehicles shall be located at least 100 feet away . . .

Comment #21: In many project areas, the only road or parking areas for vehicles and or equipment is within 100 feet of water, such as public roads along Lopez Lake, Santa Margarita Lake, Salinas River, and Nacimiento Lake, many of which are paved. There are no other staging/parking areas available in many areas.

Staff Response to Comment Peters - 31

The intention of this requirement is to minimize ground disturbance in sensitive areas. The language in section V.F.1 has been modified to specify that equipment and vehicle staging and maintenance can be within 100 feet of waters of the state and riparian areas if it is limited to existing roads, parking areas, and other pre-disturbed sites.

Peters - 32

Page 19 - Section V.F.2. - Draft Order Text: Do not operate leaking equipment where it may discharge into soil . . .

Comment #22: Vehicles and equipment, even new and well-maintained, sometimes leak, which will likely occur onto soil at some point. This condition is not achievable.

Staff Response to Comment Peters – 32

The term “onto soil” has been removed from the Order. Leaking equipment should not be operated in waters of the state to avoid toxic discharges to waters. This requirement is consistent with provisions in other Regional Water Quality Control Board and State Water Resources Control Board (Water Boards) orders to protect waters of the state.

Peters - 33

Page 19 - Section V.F.3. - Draft Order Text: Adequate spill prevention and cleanup equipment shall always remain on-site throughout project implementation.

Comment #23: There will potentially be thousands of projects occurring, some over a 10-year period or longer. It is not feasible to keep cleanup equipment on-site always on all projects.

Staff Response to Comment Peters – 33

This requirement is not intended to be in effect during projects’ inactive stages when there is no potential for a spill. Regardless, additional language has been added to further clarify this point, as well as to indicate the requirement only applies to projects using heavy equipment. This requirement is consistent with provisions in other Water Board orders to protect waters of the State.

Peters - 34

Page 20 - Section V.F.5. - Draft Order Text: Implement effective cleaning and sanitation procedures . . . prior to entering and exiting project area . . .

Comment #24: Except where a specific pathogen, such as sudden oak death, or invasive weed has been identified that poses a specific risk and where effective mitigation programs exist, it is

not feasible to require cleaning before entering and exiting a project area. Vehicle cleaning technology sometimes used on wildfire incidents has been demonstrated to be largely ineffective at controlling the spread of invasives. Typical project areas include private ranches and residential areas where projects may be in place for long periods over months or years. Landowners are defined as dischargers by this Order. It is not feasible to require private landowners and visitors to clean their shoes, tires, etc., each time they enter or exit their property, whether involved with project operations or not. Most fuel reduction projects are dependent on cooperators willing to provide access to their private property. Attempts to require private landowners to clean their boots, tools, equipment, and vehicles will likely result in project-related equipment and personnel being asked to leave the area which will not support increased pace and scale.

Staff Response to Comment Peters - 34

The language has been revised to clarify that the requirement applies specifically to transitioning between sites with known invasive species and/or pathogens, rather than for every entry and exit from a project area. It is worth noting that this requirement was recommended by California Department of Fish and Wildlife.

Peters - 35

Page 21 - Section V.G.1.f. - Draft Order Text: Use secondary containment for sanitation facilities (e.g. portable toilets) . . . must be placed as far from waters of the State as possible and are prohibited within 100 feet of waters of the State.

Comment #25: Portable toilets on trailers are commonly towed behind crew vehicles and made available as near as possible to ongoing project operations. Secondary containment is not necessary, available, or feasible in most situations. "As far from waters of the State as possible" would require towing to the top of the highest point above the waters. This is not feasible since portable toilets are only useful when they are immediately available, generally a short walk away from active operations.

Staff Response to Comment Peters - 35

Secondary containment for sanitation facilities is necessary for sufficient water quality protection and is a typical requirement across Water Boards orders. Portable toilets typically come equipped with a containment pan that serves as secondary containment. Language has been amended to allow staging of sanitation facilities closer than 100 feet from waters of the state and riparian areas if 100 feet away is not practicable.

Peters - 36

Page 21 - Section V.G.1.f. - Draft Order Text: sanitation facilities are prohibited within 100 feet of water of the State.

Comment #26: This condition is not feasible in many situations. Many projects occur adjacent to water bodies where the only road is within 100 feet of waters of the State. For example, fuel treatment along Santa Margarita Truck Trail occurs on a dirt road along the edge of Santa Margarita Lake, well within 100 feet of the lake and associated riparian areas. It is only possible to tow the portable toilet on this road since there are no other roads. Sanitation facilities are provided in many locations where there are active project operations such as at boat ramps of lakes, parks, and other public facilities where waters of the State are within 100 feet. In many such situations, sanitation facilities are already present for public use, and not in the control of project proponents.

Staff Response to Comment Peters - 36

This condition refers to temporary sanitation facilities that are mobilized as part of project activities, not pre-existing or permanent public facilities that are out of the control of the discharger. Language has been amended to allow staging of sanitation facilities closer than 100 feet from waters of the state and riparian areas if 100 feet away is not practicable.

Peters - 37

Page 22 - Section VI.A.2. - Draft Order Text: Category B high tier activities shall not continue beyond five years from issuance of the NOA.

Comment #27: Most project activities require periodic maintenance in perpetuity, based on the vegetation and site conditions. Defensible space, including work determined to be Category B because it exceeds the minimum required or is not required by regulations will occur annually. Many cooperative fuel reduction projects conducted in San Luis Obispo County have a minimum expected planning horizon of 10 years or more. Requiring a new NOI every 5 years for hundreds of potential projects is not consistent with the goal of increased pace and scale. Instead, this requirement creates significant additional workload not consistent with other project planning documents.

Staff Response to Comment Peters - 37

Dischargers that wish to continue project activities after the conclusion of the five-year permit term must re-apply. This condition is typical for long-term projects and is included in the Order to ensure that the information in the notice of intent about project locations and methods is accurate, that any compliance issues are addressed, and that compensatory mitigation for cumulative impacts of repeated activities is completed.

General orders provide applicable requirements for categories of similar discharges that are available prior to enrollment so that the programmatic maintenance project may be developed in compliance with the permit requirements. General order enrollment is also an expedited permit mechanism as an alternative to individual waste discharge requirements. After the first enrollment, the burden of processing time and efforts for the discharger to prepare a notice of intent and for Central Coast Water Board staff to review the same project are expected to be reduced for each subsequent enrollment.

Peters - 38

Page 22 - Section VI.B.1. - Draft Order Text: Clearly delineate . . . the Project on a map.

Comment #28: Thousands of private landowners and residents conducting fire hazard abatement work that could fall under this Order may not have the expertise, technology, or physical capability to determine all of the required information, conduct the field work, and produce a map. Most do not have the financial resources to hire the expertise that would be

necessary including GIS technicians, consulting biologists, hydrologists, geologists, archaeologists, entomologists, and/or environmental scientists, etc. This requirement is not feasible, creates significant workload and potential expense for many landowners, and does not support increased pace and scale of fuel reduction. Fire agencies and entities such as Fire Safe Councils often advise private landowners and ranchers on measures they can conduct to better protect their land and property from wildfire. Assistance is also commonly provided to assist with activities such as prescribed burning for range improvement or habitat restoration. In many instances however, there is no other direct involvement where landowners prefer to conduct operations on their own. At a minimum, CCRWQCB should provide a webmap viewer that delineates waters of the State where this Order applies, and a detailed description of activities that require submittal of an NOI.

Staff Response to Comment Peters - 38

The Order only applies to work conducted in surface waters of the state and riparian areas. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. In addition, section VI.B.1 of the Order only applies to Category B projects. Category A has also been expanded to include additional categories of projects. Staff expects the number of Category B projects to be small. For example, prescribed burn projects and defensible space projects are Category A projects. Projects involving debris removal and invasive species treatment can also fall within Category A. Category B projects have the potential for significant impacts to surface waters of the state and riparian areas, which can be minimized by mapping sensitive areas. To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated with additional information). Staff will also develop a figure landowners can use as a quick reference to assist with identification. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

Peters - 39

Page 22 - Section VI.B.2-5. - Draft Order Text: Clearly delineate . . . the Project on a map. Comment #29: Delineation by flagging or staking is not feasible for many project activities, particularly where the vegetation is too dense to walk through, and may not be desirable where the landowner prefers not to have the visual impact of flagging. For many projects, all necessary mapping could be accomplished through the use of GPS/GIS software and computer and smartphone applications. Requiring delineation on-the-ground creates significant workload and expense and does not support increased pace and scale of fuel reduction.

Staff Response to Comment Peters - 39

The flagging or staking serves to delineate project areas onsite so that during project activities, impacts do not occur outside of the permitted area. Permit language has been amended to include the option to use handheld devices or devices in project equipment that enable dischargers to track their location relative to the boundaries of the project area, sensitive resources to be avoided, and the boundaries of any invasive species removal areas.

Peters - 40

Page 22 - Section VI.C.1. - Draft Order Text: Limit vegetation removal to the minimum necessary . . .

Comment #30: This limitation does not support increased pace and scale and is counter to many fire prevention plans, programs and legislation. The minimum should only be satisfactory where landowner objectives, available resources, or site conditions are such that additional work is not feasible. Otherwise, most stakeholders would prefer to conduct the maximum amount of fire hazard abatement work that can be accomplished, up to and including management of the entire landscape. For example, 100 feet of defensible space is the minimum required for habitable structures in SRA. Defensible space around most other structures such as sheds or barns is not required by regulation. However, many landowners follow recommendations to create defensible space around other structures and to augment defensible space in addition to the required 100 feet around habitable structures.

Staff Response to Comment Peters - 40

The intention behind specifying that work be limited to the "minimum necessary" throughout the Order is to minimize impacts to water quality and beneficial uses while achieving flood and fire risk reduction goals. This phrase is consistently followed by language such as "to achieve flood reduction goals" or "to achieve fire risk reduction targets." For example, sediment removal should only restore the designed channel capacity without exceeding it. This ensures essential work is completed effectively while avoiding unnecessary impacts to surface waters of the state and riparian areas.

Peters - 41

Page 22 - Section VI.C.2. - Draft Order Text: Use the least impactful methods of vegetation removal . . .

Comment #31: This condition is not feasible and poses significant financial burdens on project proponents. The least impactful method is usually a surgical approach using hand tools only, similar to landscaping around homes and in flower beds. For fuel reduction projects in general, hand crew methods are usually considered less impactful than heavy equipment methods. However, the least impactful method is often cost prohibitive and can be exponentially higher than other methods that may cause greater disturbance. For example, dozer crushing may cost \$40/acre and hand crew clearance may cost \$5,000/acre to accomplish the identical fire prevention benefit on the same project area. Another example would be a project area where the use of goats is considered less impactful but costs the landowner \$4,000/acre, where the same area could be treated by broadcast burning with the cost covered by the State. To achieve increased pace and scale while accomplishing fuel reduction goals, the most feasible cost-effective methods available should be used, rather than the least impactful and most expensive methods.

Staff Response to Comment Peters - 41

The Order only applies to work conducted in surface waters of the state and riparian areas. To protect these valuable resources, the Order requires use of the least impactful methods that can practically achieve project goals. If a more protective method is not practical to achieve the project's goals, more impactful methods may be used. This allows for flexibility in selecting methods that balance environmental impact with cost-effectiveness. Dischargers may use the most cost-effective methods that still achieve the desired outcomes while minimizing environmental impacts as much as practicable. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the State Water Resources Control Board's *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or*

Fill Material to Waters of the State. It is also worth noting that section I.A of the Order has been modified to limit application of the Order to local responsibility areas.

Peters - 42

Page 23 - Section VII.A.1. - Draft Order Text: Retain trees with a diameter of four inches or more . . .

Comment #32: This condition is not feasible, does not support prudent forest management, and maintains high fuel loads. Dense forested areas targeted for thinning operations may require removal of trees of all sizes based on the treatment parameters of the project. Hazard trees will be targeted for removal regardless of size.

Staff Response to Comment Peters - 42

The full text of the requirement states that trees should be retained to the maximum extent practicable. Text has been added to clarify that retention of trees is necessary only in accordance with project goals. However, dischargers should consider opportunities to retain trees in waters of the state and riparian areas for the functions that they provide for water quality and beneficial uses, as these are different from the functions that they provide in forested areas outside riparian areas. The requirement has also been revised to state that the requirement applies to healthy native trees and shrubs.

Peters - 43

Page 23 - Section VII.A.2. - Draft Order Text: Limit ladder fuel trimming to a maximum of six feet . . .

Comment #33: Ladder fuel trimming, pruning of trees and shrubs, is an effective way to reduce fire intensity and spread while reducing crown scorch and mortality following wildfires. For most fuel reduction projects and fuel types, ladder fuel pruning is conducted to a minimum height of six feet. Optimal pruning height is determined by a number of site-specific factors including slope, vegetation type, species present, and other activities planned. This imitation is not feasible in most fuel types will not be effective as a fire risk reduction method.

Staff Response to Comment Peters - 43

Central Coast Water Board staff recognizes that appropriate heights can vary based on site-specific conditions. The permit language has been modified to allow flexibility in ladder fuel removal heights by increasing the removal height to eight feet from the ground, unless site-specific conditions and professional judgment deem a greater height necessary.

Peters - 44

Page 23 - Section VII.A.4. - Draft Order Text: When using slash to stabilize soils, limit limb size to a maximum of 4 feet in length.

Comment #34: For many types of mechanical fuel reduction treatments, it is not feasible to cut slash into 4-foot segments. Dozer piles and windrows are not physically accessible to a person with a chainsaw. Projects of this nature commonly use excavators to place slash along slopes. It is not possible and would be extremely dangerous to cut all slash into 4-foot segments prior to or following excavator placement. The benefit of contour felling of trees for this purpose would be negated if maximum segments were cut into 4-foot lengths. Except for certain small hand crew projects, cutting slash into 4-foot lengths is cost prohibitive and extremely dangerous.

Staff Response to Comment Peters – 44

Section VII.A.4 has been removed from the Order.

Peters - 45

Page 23 - Section VII.A.7.a. - Draft Order Text: Conduct vegetation management activities according to the work windows . . .

Comment #35: As discussed above in comment #19, this condition is not feasible due primarily to the increased risks of conducting any type of operations during the fire season and due to fire season restrictions placed upon such operations during periods of high fire danger. This imitation is counter to increased pace and scale of fuel reduction. The preferred work window for fuel reduction projects should be year-round during conditions that are appropriate for safe and effective operations.

Staff Response to Comment Peters - 45

We recognize that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction.

Peters - 46

Page 24 - Section VII.B.1. - Draft Order Text: Establish a 50-foot buffer around sensitive resources and surface water.

Comment #36: This condition lacks any explanation of what the buffer does. Is this buffer a limitation zone or an exclusion zone of some type? Are there limitations in treatment activities that can be used?

Staff Response to Comment Peters - 46

The requirement to establish a 50-foot buffer around sensitive resources and surface water during prescribed burns has been removed from the Order.

Peters - 47

Page 24 - Section VII.B.7. - Draft Order Text: Before burning, remove excess dead vegetation, snags, and leaf litter . . .

Comment #37: This condition is cost prohibitive since extensive hand crew work including raking leaf litter would be required. This condition is not feasible since removal of all dead fuel would negate the need to burn. Dead vegetation and leaf litter is what carries most prescribed burns.

Staff Response to Comment Peters - 47

The requirement to remove excess materials prior to burning has been removed from the Order.

Peters - 48

Page 24 - Section VII.B.9. - Draft Order Text: Limit burn piles to 20-feet . . .

Comment #38: This condition is not feasible since burn pile size is usually dictated by the amount of fuel cut and piled and also by the slope steepness and other physical limitations for those creating the piles. 20-foot piles are extremely small and are possible in some fuel types but not in moderately or extremely dense fuel types. Fuels are often cut and piled into long narrow windrows which can be hundreds of feet long.

Staff Response to Comment Peters - 48

The requirement to limit burn piles to 20 feet has been removed from the Order.

Peters - 49

Page 25 - Section VII.C.5. - Draft Order Text: Introduce livestock into the project area only after a quarantine period of at least 72 hours . . .

Comment #39: This condition is not feasible since most livestock, especially horses and cattle, are moved from one area to another based on the owner's wishes and most ranchers do not have the desire or capability to quarantine their livestock off-site for any period of time. This condition does not support the increased pace and scale of prescribed herbivory operations.

Staff Response to Comment Peters - 49

The quarantine requirement applies only when animals are introduced for the primary purpose of fire fuel reduction prescribed herbivory and have come from a different site with potential invasive species, parasites, or pathogens.

Peters - 50

Page 25 - Section VII.C.7. - Draft Order Text: Do not conduct prescribed herbivory activities during a rain event . . . or when soils are wet . . .

Comment #40: This condition is not feasible since livestock, especially large herds of cattle and horses, cannot be removed to and from their pasture on a daily basis. Livestock generally conduct prescribed herbivory at all times. Most ranches lack the facilities and capability to force their cattle and horses into barns and feed them hay during all rain events and when the soil is damp.

Staff Response to Comment Peters - 50

The restriction on prescribed herbivory activities during rain events or when soils are wet applies only to animals temporarily introduced to the area for the primary purpose of fire fuel reduction prescribed herbivory.

Peters - 51

Page 25 - Section VII.C.8. - Draft Order Text: Contain livestock in designated areas away from flowing or standing water . . .

Comment #41: This condition is not feasible and cost prohibitive since it would require all watercourses, including ephemeral streams, ponds, and lakes to be fenced. During summer monsoon storms, it is common for all watercourses across the landscape to flow water for a few hours or days. It is not conceivable to ask ranchers to exclude cattle and horses from all flowing or standing water. Stock ponds were created specifically for livestock and removal of animals is not possible. Cattle grazing is one of the most important, wide-spread, and cost-effective fire hazard reduction activities in the State. These conditions create significant limitations do not support the increased pace and scale of cattle grazing.

Staff Response to Comment Peters - 51

The requirement to contain animals in designated areas away from flowing or standing water is specific to prescribed herbivory livestock introduced to the area temporarily for the primary purpose of fire fuel reduction.

Peters - 52

Page 28 - Section VIII.A.1. - Draft Order Text: Develop a vegetation removal plan . . .

Comment #42: This condition is not feasible in many situations where landowners do not have the time, funding, or expertise to produce a detailed plan. Requiring thousands of detailed plans does not support the increased pace and scale of vegetation removal.

Staff Response to Comment Peters - 52

The Order only applies to work conducted in surface waters of the state and riparian areas. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. In addition, section VIII.A.1 of the Order only applies to Category B projects. Category A has also been expanded to include additional categories of projects. Staff expects the number of Category B projects to be small. For example, prescribed burn projects and defensible space projects are Category A projects. Projects involving debris removal and invasive plant treatment can also fall within Category A. Category B projects have the potential for significant impacts to surface waters of the state and riparian areas, which can be minimized by developing and implementing a vegetation removal or management plan. The information required to be included in most vegetation removal or management plans will not require substantial expertise - the plans primarily focus on descriptions of site conditions, planned work, and impact minimization measures. High tier projects are required to develop more detailed plans, but staff expects those projects to be rare.

Peters - 53

Page 28 - Section VIII.A.2. - Draft Order Text: Vegetation removal shall not exceed the minimum . . .

Comment #43: This condition is not feasible, does not increase pace and scale, and is counter to many fire hazard mitigation plans, executive actions, agency policies, and legislation. The minimum level of treatment is only acceptable where consistent with landowner objectives and/or where limited funding and other limited resources are available. In most situations, stakeholders would prefer to do the maximum amount of fire hazard abatement up to and including management of the entire landscape.

Staff Response to Comment Peters - 53

The Order only applies to work conducted in surface waters of the state and riparian areas. In addition, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. Furthermore, section VIII.A.1 of the Order only applies to Category B projects. Category A has also been expanded to include additional categories of projects. Staff expects the number of Category B projects to be small. For example, prescribed burn projects and defensible space projects are Category A projects. Projects involving debris removal and invasive plant treatment can also fall within Category A. Category B projects have the potential for significant impacts to surface waters of the state and riparian areas. To protect these valuable resources, the Order requires the minimum work to achieve project goals. Work within surface waters of the state and riparian areas should be justified and unnecessary work avoided. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the State Water Resources Control Board's *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. The commenter's preferred approach of mechanical clearing of all vegetation from all surface waters of the state and riparian areas over the entire landscape is not protective of surface waters of the state and riparian areas.

Peters - 54

Page 28 - Section VIII.B.1. - Draft Order Text: Develop a prescribed fire plan . . .

Comment #44: This condition is feasible only for cooperative burns where adequate funding, expertise, and resources are available to participate. For many other types of prescribed burns such as habitat restoration, range improvement, or hazard reduction pile burning, landowners, especially larger ranches, historically conducted such burns individually or with small groups. Such burns conducted after fire season do not require a permit from CAL FIRE, and other fire season requirements are no longer in place. Many ranchers conduct pile burning operations after fire season when burn permits from CAL FIRE are no longer required. This condition does not support increased pace and scale of prescribed burning since prescribed fire plans would be required for all burns, including many low-risk types of burns such as those occurring after fire season when no permit from CAL FIRE is required.

Staff Response to Comment Peters - 54

The requirement to submit a prescribed fire plan has been removed from sections VIII.B.1 and X.B.

Peters - 55

Page 28 - Section VIII.C.1. - Draft Order Text: Develop a prescribed herbivory plan . . .

Comment #45: This condition is achievable for certain cooperative projects where adequate funding, expertise, and resources are available to conduct the activity. For example, a grant funded project sponsored by the Fire Safe Council could produce this plan. However, most cattle ranchers are unlikely to have the time or interest to produce a plan. This condition creates a significant increase in workload and cost for many ranchers and therefore does not support the increased pace and scale of prescribed herbivory.

Staff Response to Comment Peters - 55

The requirement to produce a prescribed herbivory plan is specific to Category B activities that involve the temporary introduction of prescribed herbivory animals to an area for the primary purpose of fire fuel reduction. It is common practice for herd managers to develop a prescribed herbivory plan prior to initiating fuel reduction work.

Peters - 56

Page 30 - Section IX.A.1. - Draft Order Text: The discharger shall restore all areas to pre-project conditions . . .

Comment #46: This condition is not feasible and opposes the fire risk reduction goals for most projects. There is obviously no benefit in conducting a fuel reduction project if any portion of the area must be immediately restored to the pre-project conditions. It would likely be considered a misuse of public funding to conduct fire risk reduction and then immediately attempt to restore the area to pre-project conditions.

Staff Response to Comment Peters - 56

All temporary restoration and compensatory mitigation activities are expected to be conducted in a manner that aligns with flood risk reduction project goals. Section IX.A has been revised to more accurately describe the expected post-project conditions for temporary impact areas. Fire risk reduction projects can include elements such as creation of temporary access to waters of the state, which can be feasible to restore without contradicting fuel reduction objectives.

Peters - 57

Page 37 - Section X. - Draft Order Text: Required Plans for Category B Projects

Comment #47: This condition requires a number of detailed planning documents including Vegetation Removal Plans, Prescribed Fire Plans, Prescribed Herbivory Plans, and/or Invasive Species Treatment Plans. This requirement creates significant workload and additional cost for project proponents. Projects where these plans are feasible include cooperative projects involving Fire Safe Councils, agencies, and landowners who collectively have the time, expertise, and funding to prepare the required Plan(s). Individual landowners will not likely be able to achieve this requirement for most projects due to the lack of time and capabilities necessary to prepare such detailed scientific documents. Plans require expertise from a variety of professions including biologists, hydrologists, environmental scientists, geologists, entomologists, archaeologists, foresters, firefighters, GIS mapping technology, and others. Due to this substantial increase in cost and workload, it is unclear how this Order supports the increased pace and scale of fuel reduction efforts, as stated in III.A.5. Findings.

Staff Response to Comment Peters - 57

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. For example, all prescribed burn projects will be category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. As a result, Category B projects are primarily large municipal fire risk reduction and similar projects that clear substantial areas of surface waters of the state and riparian areas of vegetation. In recent years, these have been relatively rare within the region (i.e., one or two projects annually). Development of plans for these projects in Category B is warranted, due to their scope and impact on beneficial uses of surface waters of the state.

Peters - 58

Page 45 - Section XI. - Draft Order Text: Monitoring for Category B Projects

Comment #48: This requirement creates significant workload and additional cost for project proponents. Projects where monitoring is feasible include cooperative projects involving Fire Safe Councils, agencies, and landowners who collectively have the time, expertise, and funding to prepare the required assessments and conduct monitoring operations. Individual landowners may not meet the qualified monitor standard required by XI.A.5.a. will not likely be able to achieve this requirement for most projects due to the lack of time, equipment, funding, and capabilities necessary to do so. Due to this substantial increase in cost and workload, it is unclear how this Order supports the increased pace and scale of fuel reduction efforts, as stated in III.A.5. Findings.

Staff Response to Comment Peters – 58

The intent of the Order is to streamline the permitting process, providing a more efficient alternative to obtaining individual waste discharge requirements. Acquiring individual waste discharge requirements is an alternative regulatory approach for projects not covered under this Order and typically involves a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses.

We understand that some projects require increased expertise and resources to meet the requirements for Category B. Staff expects the number of Category B fire risk reduction projects to be relatively small. The updated Order reduces the permit coverage area to only local responsibility areas, recategorizes some lower impact projects to Category A, and reassigns some previously medium tier projects as low tier projects and some previously high tier projects as medium tier projects. These adjustments aim to make the process more manageable for individual landowners while still achieving the objectives of the Order.

For medium tier projects, monitoring can include qualitative descriptions of site conditions and photo documentation. Central Coast Water Board staff regularly provides guidance to individual landowners to enable them to conduct sufficiently accurate and detailed monitoring. Individuals with former experience conducting compliant activities in waters of the state would be expected to have sufficient knowledge of the laws described to meet the level of expertise for more technical post-project monitoring. Only high tier Category B projects require substantial monitoring, which is proportional to the substantial impact of such projects.

CDFW - 1

This comment is regarding page 5, Section I. Covered Activities, D. 4 in the Draft General Order.

The Draft General Order states that dischargers may need to obtain a Lake and Streambed Alteration (LSA) Agreement issued by the California Department of Fish and Wildlife (CDFW) for activities authorized under the General Order. While this statement is factual, it misrepresents CDFW's process for obtaining an LSA Agreement. The majority of activities authorized under the General Order would be required to submit an LSA Notification (Notification), pursuant to Fish and Game Code section 1600 et. seq. Once a Notification is submitted, CDFW would then make a determination if an LSA Agreement is required for the project, followed by drafting and finalization of an LSA Agreement prior to the start of project activities.

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourse with a subsurface flow, and floodplains are subject to notification requirements.

To correct this, please revise Section I. Covered Activities, D. 4. on page 5 to read:

"4. Covered activities authorized under this General Order are likely be subject to the California Department of Fish and Wildlife Lake and Streambed Alteration Notification requirements and may require a Lake and Streambed Alteration Agreement pursuant to Section 1600 et. seq. of the Fish and Game Code. CDFW requires an LSA Notification (Notification), pursuant to Fish and Game Code section 1600 et. seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourse with a subsurface flow, and floodplains are subject to notification requirements."

Staff Response to Comment CDFW - 1

Section I.D.4 has been changed to incorporate aspects of the suggested language.

BLM - 1

II. Covered Activity Categories A.5: After speaking with Waterboard staff it is our understanding that USFS projects that fall within both Category A and B requirements of the permit are automatically enrolled under the permit and are “non-notifying.” It would be helpful if language could be included in section I, Covered Activities, of the permit to make it clear that is indeed the case.

The Bureau of Land Management notes that it recently adopted a statewide Best Management Practices document (BLM 2022). These BMPs are intended to be incorporated into projects to reduce impacts to water quality. Additionally, forestry and fuels work is often conducted under a statewide programmatic NEPA document [Hazard Removal and Vegetation Management Project (HRVM, BLM 2019)] which includes a specific suite of BMPs to reduce impacts to water quality. With these two documents, the BLM would request that future projects be automatically enrolled if they incorporate applicable BMPs.

Although the USFS and BLM (Federal Agencies) may be covered automatically under this permit and no notice is necessary, the requirements in this permit would still need to be complied with and implemented, thus the Federal agencies provide comments on the entire permit as it will affect our activities.

Staff Response to Comment BLM – 1

The revised Order has been modified to only address local responsibility areas and does not regulate activities in the federal or state responsibility areas (section I.A).

BLM - 2

III Findings A. 7.: The term Waste as defined by Water Code Section 13050 (d) and includes “any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation....” The Federal Agencies object to the expansion of this definition to include “woody debris, downed vegetation and mastication materials” as it affects our ability to include riparian areas and those areas described in Covered Activity Categories A. 1. a, b, and c for vegetation treatment where these areas are overgrown and are susceptible to fire and may contain upland vegetation in quantities that increases the fire risk to these areas. These materials are also used to provide habitat benefit and this requirement prevents that use.

Staff Response to Comment BLM - 2

As described in the Order, the term “waste” is defined by California Water Code section 13050(d). The definition includes the broad phrase “associated with human habitation,” which is inclusive of human land management activities. The discharge of vegetative and sediment material to surface waters of the state resulting from vegetation and sediment management activities conducted for the purpose of reducing fire risk posed to human land uses is a discharge of waste associated with human habitation. The Order uses the term “waste” in accordance with the California Water Code definition and consistent with Central Coast Water Board and State Water Resources Control Board standard practice. The purpose of the Order is to regulate the discharge of waste, including the vegetative and sediment material, to surface waters of the state that create or threaten to create conditions of pollution or nuisance. It does not preclude activities for the purposes you mention in your comment so long as such uses do not result in the discharge of waste to surface waters of the state. The State Water Resources

Control Board's *General Waste Discharge Requirements for Vegetation Treatment Activities Conducted in Conformance with the California Vegetation Treatment Program, Order WQ 2021-0026-DWQ* regulates vegetation treatment activities throughout the state responsibility area.

The Order allows for the removal of vegetation contributing to fire risk in waters of the state and riparian areas. The watercourse protections described in sections II.A.1.a-c are not prohibitions on all discharge of waste within these areas. Further, the discharge of waste is prohibited if it is discharged in quantities deleterious to fish, wildlife, and other beneficial uses (section 4.8.5.1 of the Water Quality Control Plan for the Central Coastal Basin (Basin Plan)). The conditions of the Order are necessary to ensure that the permitted discharges of waste do not affect the quality of waters of the state or cause pollution or nuisance.

BLM - 3

V. General Conditions for All Projects C. 5: A basis should be provided for a 70 percent vegetation success requirement and including a time-period for achieving a final vegetation cover and a limit on how many vegetation attempts would be required before final project release from permit requirements. For example, reclamation activities of mine disturbances may typically require 35 percent vegetation coverage after a 5-year period to be considered successful.

Staff Response to Comment BLM - 3

This condition has been removed and sediment and erosion control requirements have been revised to focus on erosion control measure implementation.

BLM - 4

V. General Conditions for All Projects D. 1. Timing: The draft permit requires that permittees shall not conduct project activities if there is a forecast of 25 percent chance of 0.1-inch or rain in a 24-hr period. This seems a rather small predicted chance of rain with a small amount of precipitation over a 24-hr period to stop project activities.

Staff Response to Comment BLM - 4

The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for soil disturbing activities, mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments. The updated language does not limit prescribed fire activities during rain events or predicted rain events.

BLM - 5

V. General Conditions for All Projects G. Waste and Debris 1. b.: See comment above III Findings A. 7.

Staff Response to Comment BLM - 5

Woody debris, downed vegetation, and masticated materials generated from the activities regulated by this Order meet in the definition of "waste" as defined in the California Water Code. This is consistent with the application of this definition in other permits issued by the State Water Resources Control Board. The discharge of waste may be permitted provided that it is not discharged in quantities deleterious to fish, wildlife, and other beneficial uses (following

section 4.8.5.1 of the Basin Plan). This condition allows for retention of downed vegetation and woody debris in waters of the state and riparian areas for habitat benefit.

BLM - 6

V. General Conditions for All Projects H. Training 2 and 3: These requirements are unreasonable, costly, and appear to not be supported by regulation. It would be more practical for the Waterboard staff to provide and conduct annual training since Waterboard staff is most knowledgeable about its own permit and State laws. Providing “one person who is knowledgeable about the requirements of this Order and state and federal laws regarding the protection of water quality, waters of the state, and related special status species shall be onsite, during normal working hours, until all project areas are stabilized” is highly unusual for any project and such a person is not likely to exist in either the state, federal or private industry. It would be more practical for Waterboard staff to be onsite to provide state knowledge of water quality laws and special status species.

Staff Response to Comment BLM - 6

These requirements have been modified to require site-specific environmental awareness training (e.g. tail-gate meetings) only when pre-project surveys have determined that special status species are likely to occur or if project activities will be conducted below top of bank with standing or flowing surface water present onsite. The training requirement is consistent with other Water Boards orders.

The term “qualified professional” has been replaced by “individual” in requirement V.H.2. Individuals in the state, federal, or private industry with former experience conducting compliant activities in waters of the state are expected to have sufficient knowledge of the laws described to meet this standard. Central Coast Water Board staff is not available to perform these tasks but can help provide support for dischargers who do not meet this standard.

Training requirement V.H.3 requiring an onsite monitor has been removed. Dischargers with Category B projects must still comply with the monitoring requirements in section XI to ensure protection of water quality and compliance with conditions of the Order.

BLM - 7

VIII. Additional Activity Specific Conditions for Category B Projects A. b.: This appears to contradict III Findings A. 7.

Staff Response to Comment BLM - 7

This Order regulates discharges of waste for covered activities to ensure that the discharges do not exceed quantities deleterious to fish, wildlife, and other beneficial uses. Finding III.A.7 establishes that authority but does not make a determination about whether a discharge of waste meets this threshold. By following the conditions of the Order, discharges will be protective of water quality.

BLM - 8

X. Activity Specific Required Plans for Category B Projects: The USFS develops project planning, analyses and implementation through the National Environmental Policy Act (NEPA) documents. The permit needs to acknowledge this. The permit should clarify what specific

project analyses documents the USFS can submit that would satisfy this requirement without having to duplicate this section

Staff Response to Comment BLM - 8

The revised permit now applies only to local responsibility areas and no longer covers projects managed by the United States Forest Service on federal lands. Therefore, United States Forest Service projects will not be subject to potentially duplicative requirements.

BLM - 9

XI. Monitoring for Category B Projects A. 5. a.: The condition, "All monitoring shall be conducted by a qualified monitor familiar with Order conditions to ensure implementation of best management practices and protection of water quality.", is an unrealistic requirement as the draft permit is not a condition to be a qualified (?) monitor to implement USFSs National Core BMP Program. See earlier comment V. General Conditions for All Projects H. Training 2 and 3.

Staff Response to Comment BLM - 9

The condition has been removed from the Order. Furthermore, the Order has been modified and no longer applies on federal lands. However, federal, state, or private industry staff qualified to implement the United States Forest Service National Core BMP Program with former experience conducting compliant activities in waters of the state or waters of the United States are expected to have sufficient knowledge of the laws described to meet this requirement.

BLM - 10

XIV. Administrative Conditions A. 1. c.: Signatory authority on the Los Padres National Forest resides with the Forest Supervisor and Deputy Forest Supervisor or their designee as assigned.

Staff Response to Comment BLM - 10

A duly authorized representative of the person designated in XIV.A.1.a through XIV.A.1.c may sign documents if the requirements in XIV.A.2 are fulfilled.

Order coverage has been limited to local responsibility areas. This excludes the United States Forest Service as a potential enrollee. Nevertheless, language in the referenced section has been modified to specify "either a principal executive officer or equivalent, or ranking elected official."

BLM - 11

XIV. Administrative Conditions A. 3.: The USFS declines to include this certification language in any submitted document as responsibility lies with the Agency.

Staff Response to Comment BLM - 11

The United States Forest Service has provided this certification when seeking permits from the Central Coast Water Board in the past. It is unclear why it would decline to do so in this instance. Regardless, the Order has been modified and no longer applies on federal lands.

CFA – 1

The first concern is that this GWDR purports to cover two types of activities: fire risk reduction and flood risk reduction. While it is true that the order ostensibly focuses on riparian activities, these two types of risk reduction are very different in what types of treatments will be utilized. Fire risk reduction focuses on vegetation management, while flood risk reduction commonly

involves sediment removal and alterations in channel capacity and drainage. Because of the conflating of these two different types of practices, there is significant confusion within the GWDR as to what is intended.

Staff Response to Comment CFA - 1

The intent of the Order is to streamline the permitting process, providing a more efficient alternative to obtaining individual waste discharge requirements. Acquiring individual waste discharge requirements is an alternative regulatory approach for projects not covered under this Order and typically involves a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses. The requirements of the Order are activity-specific, rather than purpose-specific. This allows for applicable requirements to be identified easily, regardless of the purpose of the activity. Contrary to the commenter's assertion, fire and flood risk reduction activities are often similar - both rely heavily on vegetation management.

CFA - 2

The proposed GWDR has several statements in it that while true, seem to be at odds with what is proposed. For example:

"This Order represents the Central Coast Water Board's initial step to support the increased pace and scale of vegetation treatment from baseline levels toward the goals listed in the Governor Executive Orders identified in Finding A.3 above and the Wildfire and Forest Resilience Action Plan."

It is hard to see what the addition of another "process" does to increase pace and scale of vegetation treatment- it will likely add not only considerable time, but considerable cost to activities that already are very constrained by the lack of available funds.

Staff Response to Comment CFA - 2

The intent of the Order is to streamline the permitting process, providing a more efficient alternative to obtaining individual waste discharge requirements. Acquiring individual waste discharge requirements is an alternative regulatory approach for projects not covered under this Order and typically involves a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses.

CFA - 3

It is very concerning that beyond the workshops (which did not provide the hoped for clarity) that the only information that seems to be available to evaluate this proposal is the Public Notice and the Proposed GWDR. Commonly, a problem statement of some kind is developed. This statement should include:

- 1. What SPECIFIC problems were noted that triggered the NEED for this Order? Mere recitation of problems of wildfire and flood are not sufficient. Justification for the proposed action should be clearly stated, so that commenters can propose ALTERNATIVES to the proposal.*
- 2. Staff was asked to provide examples of what treatment action would be included in this Order, which they indicated was possible. This would enable clearer comments from the public. To my knowledge this was not done.*

Any proposed regulatory requirement should clearly state the need, necessity, authority and intent. If it lacks these elements, it renders comment extremely difficult for the public or other agencies.

Staff Response to Comment CFA - 3

The Order's intent and the need for the Order are discussed in Findings A.1, A.2, A.5, A.6, A.7, A.8, and D.2. The authority for the Order is discussed in Findings B.1, B.2, D.1, D.2, D.3, and E.1-6. Treatment actions included in the Order are described in section I and footnote 1 of the Order.

SLO Co. FSC - 1

Definition of "waste" is unclear and subject to interpretation since it must be "associated with human habitation, or "of human origin". Waste could therefore be limited to that immediately around a dwelling or could be interpreted by some to include anything from any type of human activity, as mentioned in the Order. Likewise, "of human origin" could be interpreted to exclude natural wildland vegetation, soil, water, and air which would exist in the absence of humans. In most cases, the broadest inclusive interpretation of this terminology means that all fuel reduction activities occurring everywhere are likely included in this Order.

Staff Response to Comment SLO Co. FSC - 1

As described in the Order, the term "waste" is defined by California Water Code section 13050(d). The Order uses the term "waste" in accordance with that definition and consistent with Central Coast Water Board and State Water Resources Control Board standard practice. The definition of waste is discussed in the Final Report of the Study Panel to the California State Water Resources Control Board (1969), Attorney General opinions, and court decisions interpreting the definition. The definition is not limited to activities in the areas immediately near a dwelling. Activities regulated by the Order are identified in the first sentence of the Order (section I.A). The Order regulates "vegetation and sediment removal and management activities disturbing or otherwise occurring within waters of the state and riparian areas for the purpose of fire or flood risk reduction." The Order does not regulate activities or discharges beyond those described in section I.A and should not be interpreted as such. To further reiterate this point, additional language has been added to section I.A footnotes.

SLO Co. FSC - 2

Fire risk reduction activities are clearly included in the Order. It is unclear if the Order is applicable to these same activities where used for purposes (objectives) other than fire risk reduction such as habitat restoration, range improvement, or invasive weed control.

Staff Response to Comment SLO Co. FSC - 2

The Order regulates "vegetation and sediment removal and management activities disturbing or otherwise occurring within waters of the state and riparian areas for the purpose of fire or flood risk reduction," as described in section I.A. To further reiterate this point, additional language has been added to section I.A footnotes.

SLO Co. FSC - 3

Non-notifying Category A activities that do not require submittal of documents to CCRWQCB are limited to those conducted under existing CAL FIRE programs (VMP, CalVTP, exemptions), certain very small or emergency projects, timber operations, and activities on BLM/USFS lands.

Category A includes CAL FIRE defensible space compliance, but only if limited to the minimum required by code. Any additional defensible space is Category B.

Staff Response to Comment SLO Co. FSC - 3

Category A activities also include prescribed fire conducted in accordance with standard basic protective measures, regardless of discharger. The draft order has been edited to clarify this point at section II.A.1. In addition, the draft order has been edited at section II.A.2 to also include defensible space activities conducted in accordance with municipal codes and Public Resource Code sections 4291-4293 into Category A. Information has also been added to section II.A.2 to clarify that conditions to limit disturbance to the minimum required only apply within surface waters of the state and riparian areas.

SLO Co. FSC - 4

All fire risk reduction activities not considered Category A are considered notifying Category B which requires significant time, expertise, and expense to produce the detailed documents and field work required including maps, watercourse/riparian delineation, delineation of sensitive resources and buffers, Notice of Intent (NOI), applicable activity management plan(s), on-the-ground flagging, monitoring, and reporting (ROWD).

Staff Response to Comment SLO Co. FSC - 4

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. For example, all prescribed burn projects will be category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. As a result, Category B projects are primarily large municipal fire risk reduction and similar projects that clear substantial areas of surface waters of the state and riparian areas of vegetation. In recent years, these have been relatively rare within the region (i.e., one or two projects annually). Placement of these projects in Category B is warranted, due to their scope and impact on beneficial uses of surface waters of the state.

SLO Co. FSC - 5

90-day notice - In addition to all of the required documentation listed above, NOI's must be submitted to CCRWQCB 90 days in advance of operations. It is unlikely that CCRWQCB will be able to promptly review and approve tens of thousands of applications, which will effectively shut down proposed operations.

Staff Response to Comment SLO Co. FSC - 5

Central Coast Water Board staff does not expect tens of thousands of projects to be enrolled under this Order. This comment appears to be based on a misunderstanding of the scope of the Order. Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. The Order only applies to work in surface waters of the state and riparian areas. All prescribed burn projects will be Category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and

trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. As a result, Category B projects are primarily large municipal fire risk reduction and similar projects that clear substantial areas of surface waters of the state and riparian areas of vegetation. In recent years, these have been relatively rare within the region (i.e., one or two projects annually). As such, the projected volume of notices of intent is expected to be manageable and Central Coast Water Board staff is prepared to ensure that notices of intent are reviewed and approved in a timely manner.

The intention of the notice period is to provide sufficient time for thorough review and to address any potential issues before the commencement of operations, thereby ensuring compliance with the Order and protection of water quality and beneficial uses. Central Coast Water Board staff is committed to preventing delays and facilitating efficient project implementation. In response to the concerns raised in the comment, we have changed the notification period to 60 days for high tier projects. This adjustment acknowledges the need for a more flexible timeline while still allowing adequate time for thorough review and compliance checks. Likewise, the notification period for medium and low tier projects has been reduced to 45 days and 21 days, respectively.

SLO Co. FSC - 6

The entire burden of this documentation falls to the landowner (i.e. discharger). At a minimum, the CCRWQCB should provide a detailed webmap showing where the order applies and the geographic extent of riparian zones, watercourses, groundwater, and required buffers. All required documentation should be made available on a user-friendly web-based interface.

Staff Response to Comment SLO Co. FSC - 6

To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated with additional information). Staff will also develop a figure landowners can use as a quick reference to assist with identification. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply.

SLO Co. FSC - 7

There is no mention of SRA/LRA, cities, unincorporated communities, special districts, etc. Depending on the interpretation of the definitions of waste and waters of the State, it appears that this order applies to all fire risk reduction activities over the entire landscape. If applicable only to surface water, are perennial, ephemeral, seasonal, and/or episodic waters all included even when dry for most of the year?

Staff Response to Comment SLO Co. FSC - 7

The Order regulates "vegetation and sediment removal and management activities disturbing or otherwise occurring within waters of the state and riparian areas for the purpose of fire or flood risk reduction." The Order does not regulate activities or discharges beyond those described in section I.A and should not be interpreted as such. To further reiterate this point, additional language has been added to section I.A footnotes. In addition, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. Surface waters of the state that are dry most of year, such as ephemeral and intermittent creeks, constitute the majority of

surface waters of the state within the region. These waters provide important beneficial uses and are therefore included as surface waters of the state in the Order.

SLO Co. FSC - 8

Most landowners and ranchers do not have the time, resources, or expertise to provide the detailed planning documents and maps required under this Order. Notifying Category B activities appear to include nearly all types of vegetation management except for a few types of CAL FIRE projects.

Staff Response to Comment SLO Co. FSC - 8

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. First, only projects within surface waters of the state and riparian areas are addressed by the Order. In addition, all prescribed burn projects will be Category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas.

SLO Co. FSC - 9

Project activities under this order cannot be conducted during rain events or within 24-hrs of a prediction of a 25% chance of rain. Work could therefore not occur during these lowest fire danger periods, or take advantage of rain events to abate dust from equipment and vehicles, promote safe pile burning, promote optimal smoke dispersal immediately receding storms, and many other benefits of wetting rains for fuel reduction projects.

Staff Response to Comment SLO Co. FSC - 9

The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for soil disturbing activities, mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments. The updated language does not limit prescribed fire activities during rain events or predicted rain events.

SLO Co. FSC - 10

The work period is limited to fire season months of May through November. This limitation is dangerous, short-sighted, and irresponsible by forcing tens of thousands of “dischargers” to conduct high-risk activities only during fire season, which will likely be considered negligent when wildfires inevitably occur. This requirement is in direct opposition to increasing the pace and scale of fuel reduction. If anything, the work period should be limited to the exact opposite, from November 1 through May 1.

Staff Response to Comment SLO Co. FSC – 10

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction. The prohibition of project

activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

SLO Co. FSC - 11

Throughout the Order, work is limited to the minimum level possible. This is not consistent with many land management objectives where the desire is to conduct the maximum amount of work feasible. Increasing pace and scale requires a substantial increase over the minimum level. As an example, additional defensible space over minimal code requirements is often desirable and appropriate.

Staff Response to Comment SLO Co. FSC - 11

The Order only applies to work conducted in surface waters of the state and riparian areas. In addition, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. To protect the beneficial uses of waters of the state, the Order requires the minimum work to achieve project goals. Work within surface waters of the state and riparian areas should be justified and unnecessary work avoided. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the State Water Resources Control Board's *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. Section II.A.2 of the Order has been edited to allow additional defensible space beyond minimal code requirements when recommended by the agency responsible for fire protection.

SLO Co. FSC - 12

The Order requires use of the least impactful methods for vegetation removal. In many cases, the least impactful method is also the most expensive. Project proponents usually prefer to use the most cost-effective method that achieves the desired outcome. Most grant funding requires the most cost-effective approach and the prudent use of public funds does not support the costliest method even if the least impactful.

Staff Response to Comment SLO Co. FSC - 12

The Order only applies to work conducted in surface waters of the state and riparian areas. To protect these valuable resources, the Order requires use of the least impactful methods that can practically achieve project goals. If a more protective method is not practical to achieve the project's goals, more impactful methods may be used. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the State Water Resources Control Board's *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. It is also worth noting that section I.A of the Order has been modified to limit application of the Order to local responsibility areas.

SLO Co. FSC - 13

The Order limits ladder fuel pruning to a maximum of six feet. Appropriate pruning height should be based on fuel type and several site-specific considerations, and in most situations should be a minimum of six feet.

Staff Response to Comment SLO Co. FSC - 13

Central Coast Water Board staff recognizes that appropriate heights can vary based on site-specific conditions. The permit language has been modified to allow flexibility in ladder fuel removal heights by increasing the removal height to eight feet from the ground, unless site-specific conditions and professional judgment deem a greater height necessary.

SLO Co. FSC - 14

Page 3 - Section I.A. - Draft Order Text: Definition of "Waste" per WAT §13050 Comment #1: "Waste" as defined must be "associated with human habitation", or "of human origin". The typical dictionary definition of "Habitation" refers to a community or dwelling. To meet the definition of waste, it would seem that for vegetation removal to be considered waste, it must therefore be within or around a community, building or improvement such as a public road and managed as a component of that habitation. Another qualifying statement in the definition, "of human origin", would seem to exclude wildland vegetation and soil, since these are not man-made, but are natural. Wildland vegetation growing in natural wildland areas not managed as a direct component of a habitation, and not of human origin, would NOT meet the definition of waste and would therefore NOT be regulated under this order. Landowners in general cannot make the determination if activities are associated with human habitation; therefore, maps and spatial data should be provided to assist project proponents with determining the geographic extent of this Order and documents should be made available defining which specific activities are considered to generate waste and how this determination was made.

Staff Response to Comment SLO Co. FSC - 14

As described in the Order, the term "waste" is defined by California Water Code section 13050(d). The definition includes the broad phrase "associated with human habitation," which is inclusive of human land management activities. The discharge of vegetative and sediment material to surface waters of the state as a result of vegetation and sediment management activities conducted for the purpose of reducing fire risk posed to human land uses is a discharge of waste that is associated with human habitation. The Order uses the term "waste" in accordance with the California Water Code definition and consistent with Central Coast Water Board and State Water Resources Control Board standard practice. The definition of waste is discussed in the Final Report of the Study Panel to the California State Water Resources Control Board (1969), Attorney General opinions, and court decisions interpreting the definition. The definition is not limited to activities in the areas immediately near a dwelling. For example, the State Water Resources Control Board's *General Waste Discharge Requirements for Vegetation Treatment Activities Conducted in Conformance with the California Vegetation Treatment Program, Order WQ 2021-0026-DWQ* regulates vegetation treatment activities throughout the state responsibility area, including areas not located adjacent to development. As such, determination of activities regulated by the Order is not reliant on assessment of location related to human habitation and origins of material discharged. To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated with additional information). Staff will also develop a figure landowners can use as a quick reference to assist with identification. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply.

SLO Co. FSC - 15

Page 3 - Section I.A. - Draft Order Text: Definition of waters of the state Comment #2: Definition includes groundwater which is present everywhere on the entire landscape and is impossible for the lay-person to delineate on a map. Therefore, the assumption must be that the entirety of the CCRWQCB jurisdiction is included under this order? If not the entirety of the CCRWQCB jurisdiction, detailed maps and spatial data must be provided to delineate precisely where the order applies since landowners do not have the ability to determine the presence and extent of groundwater aquifers and applicable "waters". Most landowners also do not generally have the ability to delineate the precise extent of riparian areas and agency-defined classifications of watercourses which can vary from year-to-year. Regulatory agencies including SWRCB, CDFW, CAL FIRE, DWR and others use many different definitions, inconsistent and diverse terminology for waters of the State which are difficult for many landowners to decipher including stream, watercourse, ephemeral, episodic, Class I-II-II-IV, streambed, bank, channel, ground/surface/subsurface water, seasonal, perennial, stormwater, etc.

Staff Response to Comment SLO Co. FSC - 15

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto other land areas that may eventually enter groundwater. The word "surface" has been added to the term "waters of the state" throughout. To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated). The definition of waters of the state and additional information has also been added to Attachment C. Staff will develop a figure landowners can use as a quick reference to assist with identification of surface waters of the state and riparian areas. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

SLO Co. FSC - 16

Page 3 - Section I.A. - Draft Order Text: Activities for the purpose of fire risk reduction Comment #3: This order seems to apply primarily to activities conducted for the stated purpose of fire/flood risk reduction. All of the same activities may also be conducted for purposes other than fire risk reduction including habitat restoration, ecological restoration, range improvement, invasive weed control, etc. For example, large prescribed burns are often conducted to improve the quality of forage for livestock and not necessarily for fire hazard reduction. Prescribed burns are also conducted to reduce invasives such as medusahead grass, but not for fire hazard reduction. Some activities may have fire risk reduction as a secondary benefit but not the primary objective. Are the same activities such as prescribed burning that are conducted for other purposes besides fire risk reduction covered by this proposed Order? If so, do the regulations differ depending on the specific objective of the activity? If objectives other than fire reduction are included, please specify which activities and objectives are included and how these may be regulated differently.

Staff Response to Comment SLO Co. FSC - 16

The Order regulates vegetation and sediment removal and management activities conducted for the primary purpose of fire or flood risk reduction. It does not regulate such activities conducted for other primary purposes. Clarifying language has been added at footnote 4.

SLO Co. FSC - 17

Page 4 - Section I.C. - Draft Order Text: The Board shall determine whether an activity is eligible . . .

Comment #4: A detailed list of activities and a detailed map of the geographic extent of this Order delineating “waters of the State” as defined, should be provided to assist landowners in determining if an NOI is required. Most landowners cannot make this determination since “waters of the State” includes groundwater and since formal watercourse classifications and delineation of riparian areas requires subject matter expertise. Since “waters of the State” includes groundwater and “areas that could run off to waters”, the Order appears to be applicable across the entire landscape.

Staff Response to Comment SLO Co. FSC - 17

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto land that may eventually enter groundwater. The word “surface” has been added to the term “waters of the state” throughout. The Order does not state that “areas that may run off to waters” are waters of the state; it states that such areas should be stabilized when disturbed. To provide clarity, the term “areas that may run off to waters” has been removed from section V.C.4. Determination of activities regulated by the Order is not reliant on assessment of associations to human habitation and origins of material discharged. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated). The definition of waters of the state and additional information has also been added to Attachment C. Staff will develop a figure landowners can use as a quick reference to assist with identification of surface waters of the state and riparian areas. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection’s State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

SLO Co. FSC - 18

Page 5 - Section II.A. - Draft Order Text: Category A activities are non-notifying as follows . . .

Comment #5: Listed activities include some CAL FIRE programmatic EIRs including CMP/VMP and CalVTP. However, the California Forest Improvement Program (CFIP) program is not included. Exclusion of CFIP from Category A, requiring inclusion of CFIP as Category B, and the significant additional workload this would necessitate, is counter to the goal of increased pace and scale.

Staff Response to Comment SLO Co. FSC - 18

The Order regulates activities that have fire or flood risk reduction as their primary purpose. Since CFIP projects typically have broader forest management objectives and not primarily fire or flood risk reduction objectives, they typically will not require enrollment in the Order. Additionally, the coverage area for this Order has been reduced to local responsibility areas, which further limits of its applicability to CFIP projects. If a CFIP project is within a local

responsibility area and requires enrollment due to specific objectives related to fire or flood risk reduction, it will be categorized according to the Order's tiering system. The updated Order recategorizes some low-impact activities to Category A (non-notifying) and reassigns certain medium tier projects to low tier. These adjustments are intended to simplify the process for dischargers while still fulfilling the Order's objective to protect surface waters of the state and riparian areas.

SLO Co. FSC - 19

Page 6 - Section II.A.2. - Draft Order Text: defensible space pursuant to CCR 14 §1299 or §15304(i)

Comment #6: Within SRA areas, defensible space is required for habitable structures at all times by PRC 4291. Powerline clearance is required by PRC 4292 and PRC 4293. These defensible space regulations enforced by CAL FIRE are not listed so is this work considered "notifying" under Category B since it is not listed under the non-notifying Category A? Likewise, defensible space in LRA and cities is required by several local weed abatement ordinances and other policies. If considered notifying under Category B, there will be tens of thousands of NOIs required. Defensible space work in LRA is not specified under Category A so it is therefore Category B, requiring the full NOI notification process. This requirement for cities and unincorporated communities creates significant cost and workload for tens of thousands of residents which does not support an increase in pace and scale of fuel reduction.

Staff Response to Comment SLO Co. FSC – 19

The Order has been edited at section II.A.2 to also include defensible space activities conducted in accordance with municipal code into Category A, in addition to activities conducted under Public Resource Code sections 4291-4293. Information has also been added to section II.A.2 to clarify that conditions to limit disturbance to the minimum required only apply within surface waters of the state and riparian areas, with allowance for additional activities as recommended by fire agencies.

SLO Co. FSC - 20

Page 6 - Section II.A.3. - Draft Order Text: defensible space activities limited to the minimum required

Comment #7: Fire departments and fire prevention experts commonly recommend defensible space treatments that greatly exceed the minimum required by regulations. Depending on a number of facts including vegetation type, slope, aspect, fire history, response capabilities, etc., the minimum required by law is not adequate or appropriate for many improvements. For example, defensible space may not be required at all for communication facilities, or other structures such as barns and outbuildings, but several hundred feet of defensible space treatments may be appropriate and recommended by fire experts. Wildfire experts often recommend several hundred feet of additional defensible space in steep, fire-prone areas. This limitation would therefore create a large number (thousands) of new Category B notifying activities under this Order for those landowners and for projects attempting to exceed minimum code requirements in order to improve or provide additional defensible space. The requirement creates significant workload and expense which does not support increased pace and scale of fuel reduction.

Staff Response to Comment SLO Co. FSC - 20

Information has also been added to section II.A.2 to clarify that conditions to limit disturbance to the minimum required only apply within surface waters of the state and riparian areas, with allowance for additional activities as recommended by fire agencies.

SLO Co. FSC - 21

*Page 6 - Section II.A.3. - Draft Order Text: CALFIRE activities that are CEQA exempt
Comment #8: A significant number of activities where CAL FIRE is lead agency are not exempt, not covered by an EIR, but are addressed under a CEQA Initial Study. Depending on the final determination, Negative Declarations or Mitigated Negative Declarations are often adopted. Since non-exempt activities are not listed under Category A, this order would therefore consider these activities Category B notifying activities requiring the potential “discharger” to follow the NOI process? This requirement creates significant additional workload and expense which does not support increased pace and scale.*

Staff Response to Comment SLO Co. FSC - 21

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. First, only projects within surface waters of the state and riparian areas are addressed by the Order. In addition, all prescribed burn projects will be Category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. Since most projects except for the most impactful will already fall under Category A, consideration of project CEQA status is unnecessary in determining Category A or B status.

SLO Co. FSC - 22

Page 9 - Section III.A.7. - Draft Order Text: Project activities that are covered by this Order are expected to result in discharges of waste . . .

Comment #9: By definition, “waste” must be associated with human habitation, or of human origin, which by most common definitions would include dwellings, and could include other anthropogenic components such as communities and infrastructure. Many vegetation management activities conducted for fire hazard abatement occur in wildland areas occupied by natural wildland vegetation, not associated with human habitations. Wildland vegetation and soil are natural and not of human origin. This order should be revised to clearly decipher which vegetation management activities are associated with human habitation or of human origin, which are not, and how this determination was made. Other than dwellings, what defines human habitation?

Staff Response to Comment SLO Co. FSC – 22

The Order regulates vegetation and sediment removal and management activities disturbing or otherwise occurring within surface waters of the state and riparian areas for the purpose of fire or flood risk reduction, where the activities may cause or threaten to cause a discharge of waste to waters of the state. As described in the Order, the term “waste” is defined by California Water Code section 13050(d). The definition includes the broad phrase “associated with human habitation,” which is inclusive of human land management activities. The discharge of

vegetative and sediment material to surface waters of the state as a result of vegetation and sediment management activities conducted for the purpose of reducing the fire risk posed to human land uses is a discharge of waste associated with human habitation. The Order uses the term “waste” in accordance with the California Water Code definition and consistent with Central Coast Water Board and State Water Resources Control Board standard practice. The definition of waste is discussed in the Final Report of the Study Panel to the California State Water Resources Control Board (1969), Attorney General opinions, and court decisions interpreting the definition. The definition is not limited to activities in the areas immediately near a dwelling. For example, the State Water Resources Control Board’s General Waste Discharge Requirements for Vegetation Treatment Activities Conducted in Conformance with the California Vegetation Treatment Program, Order WQ 2021-0026-DWQ regulates vegetation treatment activities throughout the state responsibility area.

SLO Co. FSC - 23

Page 9 - Section III.A.7. - Draft Order Text: These discharges will occur in quantities and at locations and times that would not occur in natural conditions . . . and are therefore associated with human activity and habitation.

Comment #10: Untrue statement. Catastrophic wildfires are a natural condition that produce discharges of soil, vegetation, smoke, chemicals, burned buildings/vehicles, etc. that exceed exponentially the potential man-made discharges associated with vegetation management activities. The word human “activity” is NOT included in the §13050 definition of waste and as used here seems to infer that any human activity could meet the definition of “waste”. Natural wildland vegetation and soil are not of human origin and would be present in the absence of humans, therefore not waste. Human activities alone in natural wildland areas are not obviously included in the definition of “waste”, and are not necessarily included under this Order. Unlike natural events such as wildfires, quantities and timing of any discharges from vegetation management activities can be carefully planned and implemented to minimize any potential impacts to the environment.

Staff Response to Comment SLO Co. FSC - 23

As described in the Order, the term “waste” is defined by California Water Code section 13050(d). The definition includes the broad phrase “associated with human habitation,” which is inclusive of human land management activities. The discharge of vegetative and sediment material to surface waters of the state as a result of vegetation and sediment management activities conducted for the purpose of reducing the fire risk posed to human land uses is a discharge of waste associated with human habitation. The Order uses the term “waste” in accordance with the California Water Code definition and consistent with Central Coast Water Board and State Water Resources Control Board standard practice. For example, the State Water Resources Control Board’s *General Waste Discharge Requirements for Vegetation Treatment Activities Conducted in Conformance with the California Vegetation Treatment Program, Order WQ 2021-0026-DWQ* regulates vegetation treatment activities throughout the state responsibility area.

SLO Co. FSC - 24

Page 10 - Section III.B.2. - Draft Order Text: Activities regulated by this Order will occur in surface waters of the state and associated riparian areas

Comment #11: “Surface” waters of the state stated here is different than “waters of the state” stated above in page 3, I.A. Waters of the state defined by §13050 includes groundwater, which

occurs throughout the entirety of the State. This order also refers to “areas that may run off to”, which seems to include the entire landscape. These statements should be reconciled to indicate if groundwater, surface water and riparian areas are all included (as stated on p. 3) or just surface water and riparian areas (as stated on p. 10). Landowners generally do not have the resources and expertise to determine the geographic extent of “waters of the State” or to classify and delineate watercourses and riparian zones as required by this Order. Detailed maps and GIS spatial data of groundwater aquifers, surface waters, and riparian areas must be provided by the CCRWQCB for reference in order for project proponents to know precisely where this Order is geographically applicable.

Staff Response to Comment SLO Co. FSC - 24

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto land that may eventually enter groundwater. The word “surface” has been added to the term “waters of the state” throughout. To provide clarity, the term “areas that may run off to waters” has been removed from section V.C.4. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated). The definition of waters of the state and additional information has also been added to Attachment C. Staff will develop a figure landowners can use as a quick reference to assist with identification of surface waters of the state and riparian areas. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection’s State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

SLO Co. FSC - 25

Page 16 - Section IV.C. - Draft Order Text: Project activities shall not cause loss of canopy that contributes to an increase in temperature . . .

Comment #12: Does this mean ambient air temperature or water temperature of surface waters? Does canopy include trees, shrubs and herbaceous plants that shade the soil or just certain types of vegetation?

Staff Response to Comment SLO Co. FSC - 25

The Order has been modified to specify an "increase in natural receiving water temperature." This condition is based on objectives contained in the Basin Plan. In this context, receiving water refers to the surface waters of the state within the project area. Canopy cover includes canopy from trees as well as other strata providing shading.

SLO Co. FSC - 26

Page 17 - Section V.B.1. - Draft Order Text: Dischargers shall limit disturbance and removal of vegetation to not exceed the minimum necessary . . .

Comment #13: The extent of vegetation removal is typically determined by available resources, such as funding, crews, equipment, suitable weather. etc. This measure to require minimal treatment is contrary to the goals of most fire prevention projects. In most situations, additional vegetation removal above the minimum helps to provide additional fire prevention benefits. For example, 100 feet of defensible space around structures is the usual minimum standard. However, site-specific conditions including slope, aspect, fuel conditions, and other concerns often necessitate additional clearance to achieve a higher standard of protection, consistent with

recommendations by fire agencies. The minimum defensible space standard is usually recommended only in situations where additional clearance is not necessary or feasible. This limitation is contrary to Executive Orders, Fire Prevention Plans, and landowner objectives where the hope is to increase the pace and scale of treatments over and above the minimum. Once minimum treatments have been accomplished, additional available resources are typically applied in strategic locations to augment completed work. The optimal amount of fuel reduction would be the maximum amount that is feasible.

Staff Response to Comment SLO Co. FSC - 26

This section of the Order requires that work within surface waters of the state and riparian areas not exceed the minimum necessary to meet project goals. The section does not stipulate that project goals must equate with the minimum standards identified by law. Project goals in various cases may exceed the minimum required. Additional work in strategic locations may align with project goals. However, once project goals are achieved, additional work beyond what is needed in surface waters of the state and riparian areas should be limited to avoid unnecessary impacts to beneficial uses of those resources.

SLO Co. FSC - 27

Page 17 - Section V.C.2. - Draft Order Text: All materials and supplies necessary for implementing effective erosion and sediment control must be on-site and ready for use at the start of the activity and must remain in supply and ready at all times so they are immediately available . . .

Comment #14: This measure is not feasible in many situations. For example, many prescribed burns occur weeks or months prior to fall rains. Some prescribed burn units may require waterbars constructed by hand crews or dozers. It is not feasible or necessary to leave the hand crew or dozer on-site from the beginning of the project until weeks or months later when it is time to install the waterbars. Installing waterbars or other measures immediately after burning or vegetation removal operations is not always feasible or appropriate. This requirement is excessive and cost-prohibitive.

Staff Response to Comment SLO Co. FSC - 27

This is a standard requirement across many Water Boards orders and is intended to ensure that common best management practices materials such as straw wattles remain on-site and ready for use when needed. The language has been revised in section V.C.2 to require that materials be available when needed, such as before anticipated rain events. This change supports timely and cost-effective erosion and sediment control without imposing unnecessary burdens.

SLO Co. FSC - 28

Page 17 - Section V.C.4. - Draft Order Text: All ground disturbance to . . . areas that may run off to water of the State . . .

Comment #15: Including the verbiage "Areas that may run off to" a watercourse or riparian area is all-inclusive and effectively includes the entire land mass since rain will run off from the highest point on land to areas downhill. This requirement effectively requires stabilization of all disturbance on the entire land mass. Inclusion of this verbiage is not consistent with the definition of "waters of the State".

Staff Response to Comment SLO Co. FSC - 28

The term "areas that may run off to waters" has been removed from section V.C.4.

SLO Co. FSC - 29

Page 17 - Section V.C.4. - Draft Order Text: All ground disturbance . . . must be stabilized . . . promptly . . . Any area left inactive for 14 days must be stabilized.

Comment #16: This measure is not feasible. For example, a 1,000-acre prescribed burn cannot be artificially stabilized. Artificial revegetation immediately following a fuel reduction project would defeat the purpose of the project by adding unnatural fuel and in most situations is not appropriate or feasible. The amount of vegetation present following completion of most fuel reduction projects is typically the maximum amount of vegetation necessary to achieve project objectives. Revegetation would therefore increase the fire hazard present. The process of natural succession occurs quickly in most areas of the State resulting in natural revegetation over a period of several months.

Staff Response to Comment SLO Co. FSC - 29

This requirement is not intended to apply to activities that do not disturb soil, such as prescribed burns. It is intended to address soil disturbing activities such as blading of access routes. Section V.C.4 has been edited for clarification. In addition, section V.C.4 has been edited to require control of erosion, without directly requiring revegetation in order to support fire risk reduction gains. However, revegetation can occur with low fire risk species such as certain native grasses. Bare soil areas, particularly on slopes, can erode rapidly and discharge sediment to creeks, impairing beneficial uses.

SLO Co. FSC - 30

Page 17 - Section V.C.5. - Draft Order Text: After project activities, disturbed areas shall be revegetated . . .

Comment #17: This measure is not feasible and not consistent with most fuel reduction objectives. Artificial revegetation is not possible, cost prohibitive, and in most situations is contrary to the objective of the vegetation removal operation. Typical fuel reduction projects remove vegetation to the extent that was designed by project stakeholders. Natural succession occurs to some degree in all situations and periodic vegetation removal in successive years is often necessary to maintain fire prevention objectives. For most fuel reduction projects, the last thing that should occur following vegetation removal is revegetation to increase the fuel load on the project area. Following a 1,000-acre prescribed burn, this condition would require artificial revegetation of 700 acres, which is not feasible and contrary to the goal of the fuel reduction project.

Staff Response to Comment SLO Co. FSC - 30

This requirement was not intended to apply to activities that do not disturb soil, such as prescribed burns. It was intended to address soil disturbing activities such as blading access routes. Section V.C.5 has been removed, though requirements to implement erosion control measures remain in section V.C.4. Bare soil areas, particularly on slopes, can erode rapidly and discharge sediment to creeks, impairing beneficial uses.

SLO Co. FSC - 31

Page 18 - Section V.D.1. - Draft Order Text: Discharger shall not conduct project activities during rain events or within 24 hours of a predicted rain event.

Comment #18: This measure is not feasible and is contrary to the objectives of many types of fire prevention activities, especially certain types of prescribed burning. Rain is often a significant benefit to certain project activities, especially where dust and fire danger are issues. Rain can help abate dust from vehicles and equipment, and can temporarily reduce the fire danger for operations that might otherwise have high fire danger conditions. Equipment

operations during fire season are often limited or suspended by fire agencies due to fire danger conditions. Rain events that dampen the soil often allow equipment operations to resume. Dozer crushing followed by prescribed burning is a common practice. Many such operations plan to conduct the prescribed burning during damp weather when only the slash within the crushed areas will burn, therefore greatly reducing the risk. Equipment work during damp conditions is often targeted near communities or sensitive receptors as part of a dust minimization measure to protect air quality. Pile burning is often conducted during rain events in order to improve safety, minimize scorching of nearby vegetation and to take advantage of optimal smoke dispersal conditions which typically occur during rain events due to unstable conditions and southerly winds. A common practice is to tarp burn piles and conduct burning at a later time during wet conditions.

Staff Response to Comment SLO Co. FSC - 31

The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for soil disturbing activities, mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments. Such activities have the potential to create erosion and their restriction during rain events serves to reduce discharges of sediment to surface waters of the state. The updated language does not limit prescribed fire activities during rain events or predicted rain events.

SLO Co. FSC - 32

Page 18 - Section V.D.2. - Draft Order Text: The work window . . . is from June 1 to September 30. The work window for using heavy equipment is from May 1 to November 30.

Comment #19: This measure effectively limits all such work to occur during fire season and peak fire danger months, which is in direct opposition of most fire prevention regulations, guidelines, and recommendations. Wildland fire agencies typically focus on wildfire response between May 1 and November 1, shifting to a greater focus on fire prevention and fuel reduction from November through April.

- Requiring all work to occur during these peak fire season months would greatly increase the fire danger.*
- Requiring all work to occur during these peak fire season months would significantly increase the cost of operations since supplemental fire suppression equipment and personnel will be required on-site that would not be necessary outside of fire season./...*
- Conducting this type of work during high fire danger periods can be considered negligent, which can result in civil and criminal penalties.*
- Confining all work to peak fire season months as proposed is not consistent with Executive Orders cited, and will prevent any increase in the pace and scale of fire prevention efforts since many personnel and equipment resources are committed to wildfire response during fire season months. If the work period is limited to peak fire season months as proposed, available work days will be effectively limited to a few days and weeks when fire danger is relatively low, since most types of fuel reduction work will not occur during summer months. The statewide goal of a million acres or more per year cannot be achieved in just a few weeks during fire season when fire danger is low. Most fire prevention projects including mastication, prescribed burning and equipment use of any kind are curtailed or prohibited during fire season. Many policies and procedures such as Project Activity Levels (PAL) are in place to curtail or suspend certain activities*

during high fire danger periods. On the Central Coast during most fire seasons, CAL FIRE Unit Chiefs institute a complete burn ban which eliminates prescribed burning and associated activities during the proposed work window in this Order.

- *The proposed work window would eliminate CAL FIRE resources from conducting fuel reduction work since crews and equipment are typically committed to wildfire response during peak fire season months. CAL FIRE resources typically conduct more fire prevention activities from November through April, outside of peak fire danger months when fire activity is diminished. Increasing the pace and scale of fuel reduction efforts requires a year-round work window so that project proponents can take advantage of weather and soil conditions that are safe and prudent. Many types of activities require work during winter months such as seasonal restrictions for avoidance of nesting and blooming periods.*
- *Increasing the pace and scale of fuel reduction requires a year-round work window to take advantage of suitable conditions during periods of low fire danger, such as extended dry period during winter months.*

Staff Response to Comment SLO Co. FSC - 32

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction.

SLO Co. FSC - 33

Page 19 - Section V.E.4. - Draft Order Text: Access and use by non-project vehicles and heavy equipment shall be restricted.

Comment #20: Many fuel reduction activities occur on rural ranches where landowners use vehicles and equipment as they wish for their own purposes. "Non-project" vehicles and equipment such as used by ranchers are not under the control of the project proponent in most situations and therefore cannot be restricted. Most fuel reduction projects are dependent on cooperators willing to provide access to their private property. Attempts to control non-project vehicles and equipment will likely result in project-related equipment and personnel being asked to leave the area which will not support increased pace and scale.

Staff Response to Comment SLO Co. FSC - 33

This requirement is specific to activities with the primary purpose of fire risk reduction. It is intended to exclude non-project vehicles from temporary access roads created specifically for project ingress and egress. The language has been modified for clarity.

SLO Co. FSC - 34

Page 19 - Section V.F.1. - Draft Order Text: Staging of equipment and vehicles shall be located at least 100 feet away . . .

Comment #21: In many project areas, the only road or parking areas for vehicles and or equipment is within 100 feet of water, such as public roads along Lopez Lake, Santa Margarita Lake, Salinas River, and Nacimiento Lake, many of which are paved. There are no other staging/parking areas available in many areas.

Staff Response to Comment SLO Co. FSC - 34

The intention of this requirement is to minimize ground disturbance in sensitive areas. The language in section V.F.1 has been modified to specify that equipment and vehicle staging and maintenance can be within 100 feet of waters of the state and riparian areas if it is limited to existing roads, parking areas, and other pre-disturbed sites.

SLO Co. FSC - 35

Page 19 - Section V.F.2. - Draft Order Text: Do not operate leaking equipment where it may discharge into soil . . .

Comment #22: Vehicles and equipment, even new and well-maintained, sometimes leak, which will likely occur onto soil at some point. This condition is not achievable.

Staff Response to Comment SLO Co. FSC - 35

The term “onto soil” has been removed from the Order. Leaking equipment should not be operated in waters of the state to avoid toxic discharges to waters. This requirement is consistent with provisions in other Water Board orders to protect waters of the State.

SLO Co. FSC - 36

Page 19 - Section V.F.3. - Draft Order Text: Adequate spill prevention and cleanup equipment shall always remain on-site throughout project implementation.

Comment #23: There will potentially be thousands of projects occurring, some over a 10-year period or longer. It is not feasible to keep cleanup equipment on-site always on all projects.

Staff Response to Comment SLO Co. FSC - 36

This requirement is not intended to be in effect during projects’ inactive stages when there is no potential for a spill. Regardless, additional language has been added to further clarify this point, as well as to indicate the requirement only applies to projects using heavy equipment. This requirement is consistent with provisions in other Water Board orders to protect waters of the State.

SLO Co. FSC - 37

Page 20 - Section V.F.5. - Draft Order Text: Implement effective cleaning and sanitation procedures . . . prior to entering and exiting project area . . .

Comment #24: Except where a specific pathogen, such as sudden oak death, or invasive weed has been identified that poses a specific risk and where effective mitigation programs exist, it is not feasible to require cleaning before entering and exiting a project area. Vehicle cleaning technology sometimes used on wildfire incidents has been demonstrated to be largely ineffective at controlling the spread of invasives. Typical project areas include private ranches and residential areas where projects may be in place for long periods over months or years. Landowners are defined as dischargers by this Order. It is not feasible to require private landowners and visitors to clean their shoes, tires, etc., each time they enter or exit their property, whether involved with project operations or not. Most fuel reduction projects are dependent on cooperators willing to provide access to their private property. Attempts to require private landowners to clean their boots, tools, equipment, and vehicles will likely result in project-related equipment and personnel being asked to leave the area which will not support increased pace and scale.

Staff Response to Comment SLO Co. FSC - 37

The language has been revised to clarify that the requirement applies specifically to transitioning between sites with known invasive species and/or pathogens, rather than for every

entry and exit from a project area. It is worth noting that this requirement was recommended by California Department of Fish and Wildlife.

SLO Co. FSC - 38

Page 21 - Section V.G.1.f. - Draft Order Text: Use secondary containment for sanitation facilities (e.g. portable toilets) . . . must be placed as far from waters of the State as possible and are prohibited within 100 feet of waters of the State.

Comment #25: Portable toilets on trailers are commonly towed behind crew vehicles and made available as near as possible to ongoing project operations. Secondary containment is not necessary, available, or feasible in most situations. "As far from waters of the State as possible" would require towing to the top of the highest point above the waters. This is not feasible since portable toilets are only useful when they are immediately available, generally a short walk away from active operations.

Staff Response to Comment SLO Co. FSC - 38

Secondary containment for sanitation facilities is necessary for sufficient water quality protection and is a typical requirement across Water Boards orders. Portable toilets typically come equipped with a containment pan that serves as secondary containment. Language has been amended to allow staging of sanitation facilities closer than 100 feet from waters of the state and riparian areas if 100 feet away is not practicable.

SLO Co. FSC - 39

Page 21 - Section V.G.1.f. - Draft Order Text: sanitation facilities are prohibited within 100 feet of water of the State.

Comment #26: This condition is not feasible in many situations. Many projects occur adjacent to water bodies where the only road is within 100 feet of waters of the State. For example, fuel treatment along Santa Margarita Truck Trail occurs on a dirt road along the edge of Santa Margarita Lake, well within 100 feet of the lake and associated riparian areas. It is only possible to tow the portable toilet on this road since there are no other roads. Sanitation facilities are provided in many locations where there are active project operations such as at boat ramps of lakes, parks, and other public facilities where waters of the State are within 100 feet. In many such situations, sanitation facilities are already present for public use, and not in the control of project proponents.

Staff Response to Comment SLO Co. FSC - 39

This condition refers to temporary sanitation facilities that are mobilized as part of project activities, not pre-existing or permanent public facilities that are out of the control of the discharger. Language has been amended to allow staging of sanitation facilities closer than 100 feet from waters of the state and riparian areas if 100 feet away is not practicable.

SLO Co. FSC - 40

Page 22 - Section VI.A.2. - Draft Order Text: Category B high tier activities shall not continue beyond five years from issuance of the NOA.

Comment #27: Most project activities require periodic maintenance in perpetuity, based on the vegetation and site conditions. Defensible space, including work determined to be Category B because it exceeds the minimum required or is not required by regulations will occur annually. Many cooperative fuel reduction projects conducted in San Luis Obispo County have a

minimum expected planning horizon of 10 years or more. Requiring a new NOI every 5 years for hundreds of potential projects is not consistent with the goal of increased pace and scale. Instead, this requirement creates significant additional workload not consistent with other project planning documents.

Staff Response to Comment SLO Co. FSC - 40

Dischargers that wish to continue project activities after the conclusion of the five-year permit term must re-apply. This condition is typical for long-term projects and is included in the Order to ensure that the information in the notice of intent about project locations and methods is accurate, that any compliance issues are addressed, and that compensatory mitigation for cumulative impacts of repeated activities is completed.

General orders provide applicable requirements for categories of similar discharges that are available prior to enrollment so that the programmatic maintenance project may be developed in compliance with the permit requirements. General order enrollment is also an expedited permit mechanism as an alternative to individual waste discharge requirements. After the first enrollment, the burden of processing time and efforts for the discharger to prepare an NOI and for Central Coast Water Board staff to review the same project are expected to be reduced for each subsequent enrollment.

SLO Co. FSC - 41

Page 22 - Section VI.B.1. - Draft Order Text: Clearly delineate . . . the Project on a map. Comment #28: Thousands of private landowners and residents conducting fire hazard abatement work that could fall under this Order may not have the expertise, technology, or physical capability to determine all of the required information, conduct the field work, and produce a map. Most do not have the financial resources to hire the expertise that would be necessary including GIS technicians, consulting biologists, hydrologists, geologists, archaeologists, entomologists, and/or environmental scientists, etc. This requirement is not feasible, creates significant workload and potential expense for many landowners, and does not support increased pace and scale of fuel reduction. Fire agencies and entities such as Fire Safe Councils often advise private landowners and ranchers on measures they can conduct to better protect their land and property from wildfire. Assistance is also commonly provided to assist with activities such as prescribed burning for range improvement or habitat restoration. In many instances however, there is no other direct involvement where landowners prefer to conduct operations on their own. At a minimum, CCRWQCB should provide a webmap viewer that delineates waters of the State where this Order applies, and a detailed description of activities that require submittal of an NOI.

Staff Response to Comment SLO Co. FSC - 41

The Order only applies to work conducted in surface waters of the state and riparian areas. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. In addition, section VI.B.1 of the Order only applies to Category B projects. Category A has also been expanded to include additional categories of projects. Staff expects the number of Category B projects to be small. For example, prescribed burn projects and defensible space projects are Category A projects. Projects involving debris removal and invasive species treatment can also fall within Category A. Category B projects have the potential for significant impacts to surface waters of the state and riparian areas, which can be minimized by mapping sensitive areas. To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been

updated with additional information). Staff will also develop a figure landowners can use as a quick reference to assist with identification. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

SLO Co. FSC - 42

*Page 22 - Section VI.B.2-5. - Draft Order Text: Clearly delineate . . . the Project on a map.
Comment #29: Delineation by flagging or staking is not feasible for many project activities, particularly where the vegetation is too dense to walk through, and may not be desirable where the landowner prefers not to have the visual impact of flagging. For many projects, all necessary mapping could be accomplished through the use of GPS/GIS software and computer and smartphone applications. Requiring delineation on-the-ground creates significant workload and expense and does not support increased pace and scale of fuel reduction.*

Staff Response to Comment SLO Co. FSC - 42

The flagging or staking serves to delineate project areas onsite so that during project activities, impacts do not occur outside of the permitted area. Permit language has been amended to include the option to use handheld devices or devices in project equipment that enable dischargers to track their location relative to the boundaries of the project area, sensitive resources to be avoided, and the boundaries of any invasive species removal areas.

SLO Co. FSC - 43

Page 22 - Section VI.C.1. - Draft Order Text: Limit vegetation removal to the minimum necessary . . .

Comment #30: This limitation does not support increased pace and scale and is counter to many fire prevention plans, programs and legislation. The minimum should only be satisfactory where landowner objectives, available resources, or site conditions are such that additional work is not feasible. Otherwise, most stakeholders would prefer to conduct the maximum amount of fire hazard abatement work that can be accomplished, up to and including management of the entire landscape. For example, 100 feet of defensible space is the minimum required for habitable structures in SRA. Defensible space around most other structures such as sheds or barns is not required by regulation. However, many landowners follow recommendations to create defensible space around other structures and to augment defensible space in addition to the required 100 feet around habitable structures.

Staff Response to Comment SLO Co. FSC - 43

The intention behind specifying that work be limited to the "minimum necessary" throughout the Order is to minimize impacts to water quality and beneficial uses while achieving flood and fire risk reduction goals. This phrase is consistently followed by language such as "to achieve flood reduction goals" or "to achieve fire risk reduction targets." For example, sediment removal should only restore the designed channel capacity without exceeding it. This ensures essential work is completed effectively while avoiding unnecessary impacts to surface waters of the state and riparian areas.

SLO Co. FSC - 44

Page 22 - Section VI.C.2. - Draft Order Text: Use the least impactful methods of vegetation removal . . .

Comment #31: This condition is not feasible and poses significant financial burdens on project proponents. The least impactful method is usually a surgical approach using hand tools only, similar to landscaping around homes and in flower beds. For fuel reduction projects in general, hand crew methods are usually considered less impactful than heavy equipment methods. However, the least impactful method is often cost prohibitive and can be exponentially higher than other methods that may cause greater disturbance. For example, dozer crushing may cost \$40/acre and hand crew clearance may cost \$5,000/acre to accomplish the identical fire prevention benefit on the same project area. Another example would be a project area where the use of goats is considered less impactful but costs the landowner \$4,000/acre, where the same area could be treated by broadcast burning with the cost covered by the State. To achieve increased pace and scale while accomplishing fuel reduction goals, the most feasible cost-effective methods available should be used, rather than the least impactful and most expensive methods.

Staff Response to Comment SLO Co. FSC – 44

The Order only applies to work conducted in surface waters of the state and riparian areas. To protect these valuable resources, the Order requires use of the least impactful methods that can practically achieve project goals. If a more protective method is not practical to achieve the project's goals, more impactful methods may be used. This allows for flexibility in selecting methods that balance environmental impact with cost-effectiveness. Dischargers may use the most cost-effective methods that still achieve the desired outcomes while minimizing environmental impacts as much as practicable. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the State Water Resources Control Board's *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. It is also worth noting that section I.A of the Order has been modified to limit application of the Order to local responsibility areas.

SLO Co. FSC - 45

Page 23 - Section VII.A.1. - Draft Order Text: Retain trees with a diameter of four inches or more . . .

Comment #32: This condition is not feasible, does not support prudent forest management, and maintains high fuel loads. Dense forested areas targeted for thinning operations may require removal of trees of all sizes based on the treatment parameters of the project. Hazard trees will be targeted for removal regardless of size.

Staff Response to Comment SLO Co. FSC - 45

The full text of the requirement states trees should be retained to the maximum extent practicable. Text has been added to clarify that retention of trees is necessary only in accordance with project goals. However, dischargers should consider opportunities to retain trees in waters of the state and riparian areas for the functions that they provide for water quality and beneficial uses, as these are different from the functions that they provide in forested areas outside riparian areas. The requirement has also been revised to state that the requirement applies to healthy native trees and shrubs.

SLO Co. FSC - 46

Page 23 - Section VII.A.2. - Draft Order Text: Limit ladder fuel trimming to a maximum of six feet

Comment #33: Ladder fuel trimming, pruning of trees and shrubs, is an effective way to reduce fire intensity and spread while reducing crown scorch and mortality following wildfires. For most fuel reduction projects and fuel types, ladder fuel pruning is conducted to a minimum height of six feet. Optimal pruning height is determined by a number of site-specific factors including slope, vegetation type, species present, and other activities planned. This imitation is not feasible in most fuel types will not be effective as a fire risk reduction method.

Staff Response to Comment SLO Co. FSC - 46

Central Coast Water Board staff recognizes that appropriate heights can vary based on site-specific conditions. The permit language has been modified to allow flexibility in ladder fuel removal heights by increasing the removal height to eight feet from the ground, unless site-specific conditions and professional judgment deem a greater height necessary.

SLO Co. FSC - 47

Page 23 - Section VII.A.4. - Draft Order Text: When using slash to stabilize soils, limit limb size to a maximum of 4 feet in length.

Comment #34: For many types of mechanical fuel reduction treatments, it is not feasible to cut slash into 4-foot segments. Dozer piles and windrows are not physically accessible to a person with a chainsaw. Projects of this nature commonly use excavators to place slash along slopes. It is not possible and would be extremely dangerous to cut all slash into 4-foot segments prior to or following excavator placement. The benefit of contour felling of trees for this purpose would be negated if maximum segments were cut into 4-foot lengths. Except for certain small hand crew projects, cutting slash into 4-foot lengths is cost prohibitive and extremely dangerous.

Staff Response to Comment SLO Co. FSC - 47

Section VII.A.4 has been removed from the Order.

SLO Co. FSC - 48

Page 23 - Section VII.A.7.a. - Draft Order Text: Conduct vegetation management activities according to the work windows . . .

Comment #35: As discussed above in comment #19, this condition is not feasible due primarily to the increased risks of conducting any type of operations during the fire season and due to fire season restrictions placed upon such operations during periods of high fire danger. This imitation is counter to increased pace and scale of fuel reduction. The preferred work window for fuel reduction projects should be year-round during conditions that are appropriate for safe and effective operations.

Staff Response to Comment SLO Co. FSC - 48

We recognize that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction.

SLO Co. FSC - 49

Page 24 - Section VII.B.1. - Draft Order Text: Establish a 50-foot buffer around sensitive resources and surface water.

Comment #36: This condition lacks any explanation of what the buffer does. Is this buffer a limitation zone or an exclusion zone of some type? Are there limitations in treatment activities that can be used?

Staff Response to Comment SLO Co. FSC - 49

The requirement to establish a 50-foot buffer around sensitive resources and surface water during prescribed burns has been removed from the Order.

SLO Co. FSC - 50

Page 24 - Section VII.B.7. - Draft Order Text: Before burning, remove excess dead vegetation, snags, and leaf litter . . .

Comment #37: This condition is cost prohibitive since extensive hand crew work including raking leaf litter would be required. This condition is not feasible since removal of all dead fuel would negate the need to burn. Dead vegetation and leaf litter is what carries most prescribed burns.

Staff Response to Comment SLO Co. FSC - 50

The requirement to remove excess materials prior to burning has been removed from the Order.

SLO Co. FSC - 51

Page 24 - Section VII.B.9. - Draft Order Text: Limit burn piles to 20-feet . . .

Comment #38: This condition is not feasible since burn pile size is usually dictated by the amount of fuel cut and piled and also by the slope steepness and other physical limitations for those creating the piles. 20-foot piles are extremely small and are possible in some fuel types but not in moderately or extremely dense fuel types. Fuels are often cut and piled into long narrow windrows which can be hundreds of feet long.

Staff Response to Comment SLO Co. FSC - 51

The requirement to limit burn piles to 20 feet has been removed from the Order.

SLO Co. FSC - 52

Page 25 - Section VII.C.5. - Draft Order Text: Introduce livestock into the project area only after a quarantine period of at least 72 hours . . .

Comment #39: This condition is not feasible since most livestock, especially horses and cattle, are moved from one area to another based on the owner's wishes and most ranchers do not have the desire or capability to quarantine their livestock off-site for any period of time. This condition does not support the increased pace and scale of prescribed herbivory operations.

Staff Response to Comment SLO Co. FSC - 52

The quarantine requirement applies only when livestock are introduced for the primary purpose of fire fuel reduction prescribed herbivory and have come from a different site with potential invasive species, parasites, or pathogens. Clarifying language has been added to section VII.C.5.

SLO Co. FSC - 53

Page 25 - Section VII.C.7. - Draft Order Text: Do not conduct prescribed herbivory activities during a rain event . . . or when soils are wet . . .

Comment #40: This condition is not feasible since livestock, especially large herds of cattle and horses, cannot be removed to and from their pasture on a daily basis. Livestock generally

conduct prescribed herbivory at all times. Most ranches lack the facilities and capability to force their cattle and horses into barns and feed them hay during all rain events and when the soil is damp.

Staff Response to Comment SLO Co. FSC - 53

The restriction on prescribed herbivory activities during rain events or when soils are wet applies only to livestock temporarily introduced to the area for the primary purpose of fire fuel reduction prescribed herbivory.

SLO Co. FSC - 54

Page 25 - Section VII.C.8. - Draft Order Text: Contain livestock in designated areas away from flowing or standing water . . .

Comment #41: This condition is not feasible and cost prohibitive since it would require all watercourses, including ephemeral streams, ponds, and lakes to be fenced. During summer monsoon storms, it is common for all watercourses across the landscape to flow water for a few hours or days. It is not conceivable to ask ranchers to exclude cattle and horses from all flowing or standing water. Stock ponds were created specifically for livestock and removal of animals is not possible. Cattle grazing is one of the most important, wide-spread, and cost-effective fire hazard reduction activities in the State. These conditions create significant limitations do not support the increased pace and scale of cattle grazing.

Staff Response to Comment SLO Co. FSC - 54

The requirement to contain livestock in designated areas away from flowing or standing water is specific to prescribed herbivory livestock introduced to the area temporarily for the primary purpose of fire fuel reduction.

SLO Co. FSC - 55

Page 28 - Section VIII.A.1. - Draft Order Text: Develop a vegetation removal plan . . .

Comment #42: This condition is not feasible in many situations where landowners do not have the time, funding, or expertise to produce a detailed plan. Requiring thousands of detailed plans does not support the increased pace and scale of vegetation removal.

Staff Response to Comment SLO Co. FSC - 55

The Order only applies to work conducted in surface waters of the state and riparian areas. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. In addition, section VIII.A.1 of the Order only applies to Category B projects. Category A has also been expanded to include additional categories of projects. Staff expects the number of Category B projects to be small. For example, prescribed burn projects and defensible space projects are Category A projects. Projects involving debris removal and invasive plant treatment can also fall within Category A. Category B projects have the potential for significant impacts to surface waters of the state and riparian areas, which can be minimized by developing and implementing a vegetation removal or management plan. The information required to be included in most vegetation removal or management plans will not require substantial expertise - the plans primarily focus on descriptions of site conditions, planned work, and impact minimization measures. High tier projects are required to develop more detailed plans, but staff expects those projects to be rare.

SLO Co. FSC - 56

Page 28 - Section VIII.A.2. - Draft Order Text: Vegetation removal shall not exceed the minimum . . .

Comment #43: This condition is not feasible, does not increase pace and scale, and is counter to many fire hazard mitigation plans, executive actions, agency policies, and legislation. The minimum level of treatment is only acceptable where consistent with landowner objectives and/or where limited funding and other limited resources are available. In most situations, stakeholders would prefer to do the maximum amount of fire hazard abatement up to and including management of the entire landscape.

Staff Response to Comment SLO Co. FSC - 56

The Order only applies to work conducted in surface waters of the state and riparian areas. In addition, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. Furthermore, section VIII.A.1 of the Order only applies to Category B projects. Category A has also been expanded to include additional categories of projects. Staff expects the number of Category B projects to be small. For example, prescribed burn projects and defensible space projects are Category A projects. Projects involving debris removal and invasive plant treatment can also fall within Category A. Category B projects have the potential for significant impacts to surface waters of the state and riparian areas. To protect these valuable resources, the Order requires the minimum work to achieve project goals. Work within surface waters of the state and riparian areas should be justified and unnecessary work avoided. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the *State Water Resources Control Board's State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. The commenter's preferred approach of mechanical clearing of all vegetation from all surface waters of the state and riparian areas over the entire landscape is not protective of surface waters of the state and riparian areas.

SLO Co. FSC - 57

Page 28 - Section VIII.B.1. - Draft Order Text: Develop a prescribed fire plan . . .

Comment #44: This condition is feasible only for cooperative burns where adequate funding, expertise, and resources are available to participate. For many other types of prescribed burns such as habitat restoration, range improvement, or hazard reduction pile burning, landowners, especially larger ranches, historically conducted such burns individually or with small groups. Such burns conducted after fire season do not require a permit from CAL FIRE, and other fire season requirements are no longer in place. Many ranchers conduct pile burning operations after fire season when burn permits from CAL FIRE are no longer required. This condition does not support increased pace and scale of prescribed burning since prescribed fire plans would be required for all burns, including many low-risk types of burns such as those occurring after fire season when no permit from CAL FIRE is required.

Staff Response to Comment SLO Co. FSC - 57

The requirement to submit a prescribed fire plan has been removed from sections VIII.B.1 and X.B.

SLO Co. FSC - 58

Page 28 - Section VIII.C.1. - Draft Order Text: Develop a prescribed herbivory plan . . .

Comment #45: This condition is achievable for certain cooperative projects where adequate funding, expertise, and resources are available to conduct the activity. For example, a grant

funded project sponsored by the Fire Safe Council could produce this plan. However, most cattle ranchers are unlikely to have the time or interest to produce a plan. This condition creates a significant increase in workload and cost for many ranchers and therefore does not support the increased pace and scale of prescribed herbivory.

Staff Response to Comment SLO Co. FSC - 58

The requirement to produce a prescribed herbivory plan is specific to activities that involve the temporary introduction of prescribed herbivory livestock to an area for the primary purpose of fire fuel reduction. It is common practice for herd managers to develop a prescribed herbivory plan prior to initiating fuel reduction work.

SLO Co. FSC - 59

Page 30 - Section IX.A.1. - Draft Order Text: The discharger shall restore all areas to pre-project conditions . . .

Comment #46: This condition is not feasible and opposes the fire risk reduction goals for most projects. There is obviously no benefit in conducting a fuel reduction project if any portion of the area must be immediately restored to the pre-project conditions. It would likely be considered a misuse of public funding to conduct fire risk reduction and then immediately restore the area to pre-project conditions.

Staff Response to Comment SLO Co. FSC - 59

All temporary restoration and compensatory mitigation activities are allowed to be conducted in a manner that aligns with flood risk reduction project goals. Section IX.A has been revised to more accurately describe the expected post-project conditions for temporary impact areas. Fire risk reduction projects can include elements such as creation of temporary access to waters of the state, which can be feasible to restore without contradicting fuel reduction objectives.

SLO Co. FSC - 60

Page 37 - Section X. - Draft Order Text: Required Plans for Category B Projects

Comment #47: This condition requires a number of detailed planning documents including Vegetation Removal Plans, Prescribed Fire Plans, Prescribed Herbivory Plans, and/or Invasive Species Treatment Plans. This requirement creates significant workload and additional cost for project proponents. Projects where these plans are feasible include cooperative projects involving Fire Safe Councils, agencies, and landowners who collectively have the time, expertise, and funding to prepare the required Plan(s). Individual landowners will not likely be able to achieve this requirement for most projects due to the lack of time and capabilities necessary to prepare such detailed scientific documents. Plans require expertise from a variety of professions including biologists, hydrologists, environmental scientists, geologists, entomologists, archaeologists, foresters, firefighters, GIS mapping technology, and others. Due to this substantial increase in cost and workload, it is unclear how this Order supports the increased pace and scale of fuel reduction efforts, as stated in III.A.5. Findings.

Staff Response to Comment SLO Co. FSC - 60

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. For example, all prescribed burn projects will be Category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore,

section I.A of the Order has been modified to limit application of the Order to local responsibility areas. As a result, Category B projects are primarily large municipal fire risk reduction and similar projects that clear substantial areas of surface waters of the state and riparian areas of vegetation. In recent years, these have been relatively rare within the region (i.e., one or two projects annually). Development of plans for these projects in Category B is warranted, due to their scope and impact on beneficial uses of surface waters of the state.

SLO Co. FSC - 61

Page 45 - Section XI. - Draft Order Text: Monitoring for Category B Projects

Comment #48: This requirement creates significant workload and additional cost for project proponents. Projects where monitoring is feasible include cooperative projects involving Fire Safe Councils, agencies, and landowners who collectively have the time, expertise, and funding to prepare the required assessments and conduct monitoring operations. Individual landowners may not meet the qualified monitor standard required by XI.A.5.a. will not likely be able to achieve this requirement for most projects due to the lack of time, equipment, funding, and capabilities necessary to do so. Due to this substantial increase in cost and workload, it is unclear how this Order supports the increased pace and scale of fuel reduction efforts, as stated in III.A.5. Findings.

Staff Response to Comment SLO Co. FSC – 61

The intent of the Order is to streamline the permitting process, providing a more efficient alternative to obtaining individual waste discharge requirements. Acquiring individual waste discharge requirements is an alternative regulatory approach for projects not covered under this Order and typically involves a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses.

We understand that some projects require increased expertise and resources to meet the requirements for Category B. Staff expects the number of Category B fire risk reduction projects to be relatively small. The updated draft reduces the permit coverage area to only local responsibility areas, recategorizes some lower impact activities to Category A, and reassigns some previously medium tier projects as low tier and some previously high tier projects as medium tier. These adjustments aim to make the process more manageable for dischargers while still achieving the objectives of the Order.

For medium tier projects, monitoring can include qualitative descriptions of site conditions and photo documentation. Central Coast Water Board staff regularly provide guidance to individual landowners to enable them to conduct sufficiently accurate and detailed monitoring. Individuals with former experience conducting compliant activities in waters of the state would be expected to have sufficient knowledge of the laws described to meet the level of expertise for more technical post-project monitoring. Only high tier Category B projects require substantial monitoring, which is proportional to the substantial impact of such projects.

SLO Co. FSC - 62

Page 5 – Section II.A.1 – Draft Order Text: Covered Activity Categories

CEQA processed projects using MND, EIR, NOE, or other approved methods should also be Category A.

Staff Response to Comment SLO Co. FSC - 62

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. First, only projects within surface waters of the state and riparian areas are addressed by the Order. In addition, all prescribed burn projects will be Category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. Since most projects except for the most impactful will already fall under Category A, consideration of project CEQA status is unnecessary in determining Category A or B status.

SLO Co. FSC - 63

*Page 6 – Section II.A.1.c – Draft Order Text: Covered Activity Categories
Does this apply year round or only when wet from recent rains. During dry season these are dry surfaces.*

Staff Response to Comment SLO Co. FSC - 63

The Order and activity categories are to be applied year-round, regardless of the season.

SLO Co. FSC - 64

*Page 6 – Section II.A.2 – Draft Order Text: Covered Activity Categories
This is commonly referred to as Defensible Space and only applies to SRA (PRC 4291). Local defensible space ordinances are not covered by this regulations and would require Cat B MEDIUM provision since they occur more than once (annually).*

Staff Response to Comment SLO Co. FSC - 64

The Order has been edited at section II.A.2 to also include defensible space activities conducted in accordance with municipal code into Category A, in addition to activities conducted under Public Resource Code sections 4291-4293. Information has also been added to section II.A.2 to clarify that conditions to limit disturbance to the minimum required only apply within surface waters of the state and riparian areas, with allowance for additional activities as recommended by fire agencies.

SLO Co. FSC - 65

*Page 6 – Section II.A.3 – Draft Order Text: Covered Activity Categories
What about other agencies that are bound by CEQA regulations that make same findings?*

Staff Response to Comment SLO Co. FSC - 65

The Order language has been revised at section II.A.3 and now applies to CEQA-exempt fire risk reduction activities reviewed by any CEQA lead agency, not just CAL FIRE.

SLO Co. FSC - 66

*Page 7 – Section II.B – Draft Order Text: Covered Activity Categories
This may result in hundreds if not thousands of applications for defensible space alone that is required by local ordinance outside of SRA.*

Staff Response to Comment SLO Co. FSC – 66

The Order has been edited at section II.A.2 to also include defensible space activities conducted in accordance with municipal code into Category A, in addition to activities conducted under Public Resource Code sections 4291-4293. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas.

SLO Co. FSC - 67

Page 8 – Section III.A.2 – Draft Order Text: Findings

Wildfires are more damaging to water quality than managed vegetation projects. This order seems to have the opposite effect of increasing pace and scale. Land owners not REQUIRED to conduct vegetation treatment projects (even though desirable) MAY choose not to do them due to regulatory hurdle.

Staff Response to Comment SLO Co. FSC - 67

Individual waste discharge requirements are an alternative regulatory approach for projects not covered under this Order and typically involve a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses. In addition, the Order has been edited to increase the types of projects eligible to fall into Category A, which is non-notifying.

SLO Co. FSC - 68

Page 9 – Section III.A.7 – Draft Order Text: Findings

Clearly describing and providing mapping of applicable areas is essential. By definition “waters of the state” can be interpreted as anywhere and everywhere, even when not near riparian areas.

Using buffer definitions such as used in Category A (for Chapparal Management PEIR applications) may help identify where this order applies (although Class3 still needs clarification for operations during dry season).

Staff Response to Comment SLO Co. FSC - 68

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto other land areas that may eventually enter groundwater. The word “surface” has been added to the term “waters of the state” throughout. To determine the activities subject to the Order, landowners can refer to sections II.A and II.B, as well as footnote 1. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated). The definition of waters of the state and additional information has also been added to Attachment C. Staff will develop a figure landowners can use as a quick reference to assist with identification of surface waters of the state and riparian areas. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection’s State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

SLO Co. FSC - 69

Page 9 – Section III.A.7 – Draft Order Text: Findings

Again, need clarification where this applies; 500 feet away from an ephemeral drainage or seasonal stream? 1000 feet? 100 feet?

Staff Response to Comment SLO Co. FSC - 69

The Order only regulates activities in surface waters of the state and riparian areas. To assist with identifying riparian areas, landowners can reference the definition at Attachment C (which has been updated). The definition of waters of the state and additional information has also been added to Attachment C. Staff will develop a figure landowners can use as a quick reference to assist with identification of surface waters of the state and riparian areas. While maps of the location of every surface water of the state and riparian area in the region are not available, landowners can reference the California Board of Forestry and Fire Protection's State Responsibility Area Viewer to determine if they are located outside local responsibility areas, in which case the Order does not apply. However, if definitions and figures do not suffice as tools for identifying surface waters of the state and riparian areas, staff will be readily available to assist. Direct staff contact information will be provided in guidance documentation.

SLO Co. FSC - 70

*Page 10 – Section III.A.7 – Draft Order Text: Findings
What about livestock grazing for meat production purposes?*

Staff Response to Comment SLO Co. FSC - 70

The prescribed herbivory requirements in the Order specifically apply to activities where animals are temporarily introduced for the primary purpose of reducing fire fuels. These requirements do not apply to livestock grazing for meat production purposes.

SLO Co. FSC - 71

*Page 10 – Section III.A.8 – Draft Order Text: Findings
How does this streamline that?*

Staff Response to Comment SLO Co. FSC - 71

Individual waste discharge requirements are an alternative regulatory approach for projects not covered under this Order and typically involve a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses.

SLO Co. FSC - 72

*Page 10 – Section III.B.2 – Draft Order Text: Findings
"Riparian" definition required if this section causes groundwater to be excluded from the order.*

Staff Response to Comment SLO Co. FSC - 72

A definition for riparian is included in Appendix C. The word "surface" has been added to the term "waters of the state" throughout to clarify that groundwater is not included. The definition of waters of the state has also been added to Attachment C.

SLO Co. FSC - 73

*Page 12 – Section III.D.2 – Draft Order Text: Findings
The purpose of vegetation treatments covered by this order are to prevent or reduce impact from high intensity wildfires (a more damaging event on the watershed). Vegetation treatments*

are surrogates for wildfires and returning more natural low intensity fire occurrence. Requiring compensatory mitigation may exacerbate the problem (by adding for fuel to the landscape when the overarching goal is to reduce the volume of vegetative fuel) or perhaps worse, is to discourage treatments at all.

Staff Response to Comment SLO Co. FSC - 73

The Order allows for many types of fire risk reduction activities to occur without mitigation, including all Category A projects. Examples include prescribed fire, defensible space activities, invasive plant removal, prescribed herbivory, certain types of dead tree or debris removal, and trimming, limbing, or weed whipping of vegetation. Projects can be designed to avoid mitigation requirements. The activities necessitating mitigation are limited to Category B projects with potential to significantly impact beneficial uses of surface waters of the state. Only medium and high tier Category B projects are required to implement mitigation, including activities such as mature native tree removal, native tree canopy removal, native vegetation mastication, permanent road construction, wetland disturbance, and clearing and grubbing.

SLO Co. FSC - 74

Page 13 – Section III.E.1 – Draft Order Text: Findings

This statement seems to differentiate between “waters of the state” and riparian leading one to believe it is widespread application across 100% of the region landmass, not just active drainages.

Staff Response to Comment SLO Co. FSC - 74

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto other land areas that may eventually enter groundwater. The word “surface” has been added to the term “waters of the state” throughout. The definition of waters of the state and additional information has also been added to Attachment C.

SLO Co. FSC - 75

Page 13 – Section III.E.5 – Draft Order Text: Findings

Based on what findings? Different activities would create different site conditions.

Staff Response to Comment SLO Co. FSC - 75

Discharges from vegetation or sediment removal or management activities have similar wastes and concentrations of wastes, including sediment, vegetative material, herbicides, bacteria, nutrients, and petroleum products.

SLO Co. FSC - 76

Page 14 – Section III.E.6 – Draft Order Text: Findings

Burden of preparing reports may be sufficient to preclude the landowner from doing not required treatments.

Staff Response to Comment SLO Co. FSC - 76

Individual waste discharge requirements are an alternative regulatory path for activities classified as Category B, those requiring reports. Individual waste discharge requirements generally involve a more extensive and time-consuming process, so the costs and burdens associated with Category B requirements in the Order do not exceed those of obtaining individual waste discharge requirements. Moreover, Category A projects will not require report submittal. Additionally, it's important to note that we expect only a small number of fire risk

reduction projects to fall under Category B. For example, prescribed burn projects and defensible space activities will generally fall under Category A, provided that they adhere to best management practices and minimum requirements within surface waters and riparian areas. Furthermore, the Order has been modified to apply only to local responsibility areas, which further reduces the number of projects that would fall under Category B. As a result, Category B projects are primarily large municipal fire risk reduction and similar projects that clear substantial areas of surface waters of the state and riparian areas of vegetation. In recent years, these have been relatively rare within the region (i.e., one or two projects annually).

SLO Co. FSC - 77

*Page 15 – Section III.E.10 – Draft Order Text: Findings
This statement should be supported by scientific facts.*

Staff Response to Comment SLO Co. FSC - 77

The State Water Resources Control Board's Resolution 2017-0012 emphasizes integrating climate change response into all Water Board actions. The comment specifically refers to the following statement in the Order: "Aligning with Resolution 2017- 0012, this Order facilitates prevention of wildfire and response to extreme weather associated with climate change." This Order streamlines permitting of fire fuel reduction activities in surface waters of the state and riparian areas. The alternative approach to permitting such activities is individual waste discharge requirements, which typically take six months to a year to issue. Since vegetation management activities can reduce wildfire severity, streamlining the permitting of those activities facilitates prevention of wildfire and response to extreme weather associated with climate change.

SLO Co. FSC - 78

*Page 16 – Section III.E.13 – Draft Order Text: Findings
Low income communities, which are more severely impacted by wildfires, are less likely to be able to fund the additional cost to comply with this order.*

Staff Response to Comment SLO Co. FSC - 78

The intent of the Order is to streamline the permitting process, reducing the time and cost compared to obtaining individual waste discharge requirements. Additionally, projects in Category A (non-notifying) have no fees and requirements for only basic protective measures, reducing the burden for smaller, lower-impact projects. To further address these concerns, the scope of the Order has been reduced to focus only on local responsibility areas. This adjustment prioritizes larger municipal projects and decreases the number of projects requiring enrollment by private landowners, helping to alleviate financial impacts on those landowners. The Order is intended to streamline the permitting process while also ensuring water quality and beneficial use protection of surface waters of the state and riparian areas for disadvantaged communities.

SLO Co. FSC - 79

*Page 16 – Section IV.C – Draft Order Text: Prohibitions
Fuel reduction in shrub communities using prescribed fire usually removes most of the "canopy". This regulation appears to prohibit prescribed fire in shrub plant communities.*

Staff Response to Comment SLO Co. FSC - 79

This Order does not prohibit prescribed fire in shrub plant communities. This Order only applies to waters in the state and riparian areas. Vegetation management occurring in shrub communities outside waters of the state and riparian areas will not be regulated by this Order. Additionally, prescribed fire is a Category A (non-notifying) activity, provided basic protective measures are followed.

SLO Co. FSC - 80

*Page 17 – Section V.B.1 – Draft Order Text: General Conditions for All Projects
Who determines the “minimum necessary to achieve project goals”?*

Staff Response to Comment SLO Co. FSC - 80

The "minimum necessary to achieve project goals" is typically determined by the discharger based on site conditions and best practices, but it is subject to review by regulatory agencies to ensure compliance with environmental standards.

SLO Co. FSC - 81

*Page 17 – Section V.C.2 – Draft Order Text: General Conditions for All Projects
This needs to be reworded to recognize that multi-year projects have operational and non-operational periods and it is not practical to leave materials on site “at all times”.*

Staff Response to Comment SLO Co. FSC - 81

Section V.C.2 was updated to require that all necessary erosion and sediment control materials be available and ready for use prior to anticipated rain events, rather than requiring them to be on site at all times.

SLO Co. FSC - 82

*Page 18 – Section V.C.4 – Draft Order Text: General Conditions for All Projects
This needs to be reworded to recognize that multi-year projects have operational and non-operational periods and it is not practical to revegetate after 14 days. Pre burn treatment preparation may occur in Spring with prescribed fire burning occurring in Fall or even subsequent years.*

Staff Response to Comment SLO Co. FSC - 82

Section V.C.4 (previously V.C.3) has been revised to prioritize erosion control on disturbed soils, rather than focusing on immediate revegetation.

SLO Co. FSC - 83

*Page 18 – Section V.C.5 – Draft Order Text: General Conditions for All Projects
Pre treatment conditions may not be the desired end state if vegetation reduction is the goal of the project. If the goal is to reduce flammable vegetation by reintroducing low intensity fire, it is counter intuitive to increase over pre-project conditions*

Staff Response to Comment SLO Co. FSC - 83

Section V.C.5 (displayed as V.C.4 in the revised Order) has been removed from the Order.

SLO Co. FSC - 84

Page 18 – Section V.D.1 – Draft Order Text: General Conditions for All Projects

There are other BMP for forest operations in place that differ from this.

Staff Response to Comment SLO Co. FSC - 84

The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

SLO Co. FSC - 85

Page 18 – Section V.D.2 – Draft Order Text: General Conditions for All Projects

These dates are VERY problematic if the order applies across the entire region. May thru November is high fire season and some operations are precluded by other regulations from occurring during this period. Additionally, defensible space regulations often require hazardous vegetation reductions to be COMPLETE by May 1 prior to high fire season. Pile burning frequently is prepared in the other months for Fall and Winter burning when grass is green and chance of escape is minimal.

Staff Response to Comment SLO Co. FSC - 85

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 was revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction.

SLO Co. FSC - 86

Page 19 – Section V.E.3.a – Draft Order Text: General Conditions for All Projects

Define a dry channel; does a swale that is dry from May through October require 48 hour restoration when prescribed fire control line is put in in May for a Fall burn?

Staff Response to Comment SLO Co. FSC - 86

This condition has been modified to clarify that erosion control must be installed within 48 hours of completion of work.

SLO Co. FSC - 87

Page 19 – Section V.E.4 – Draft Order Text: General Conditions for All Projects

Landowners and others properly using the property and its roads will likely use access roads for normal ranch or farm operations. It is NOT practical to restrict them.

Staff Response to Comment SLO Co. FSC - 87

This requirement is specific to activities with the primary purpose of fire risk reduction. It is intended to exclude non-project vehicles from temporary access roads created specifically for project ingress and egress into surface waters of the state and riparian areas. The language has been modified for clarity.

SLO Co. FSC - 88

Page 19 – Section V.F.1 – Draft Order Text: General Conditions for All Projects

There are times where there is NO alternative location other than an existing road that is less than 100 feet from “waters of the state and riparian areas”.

Staff Response to Comment SLO Co. FSC - 88

The intention of this requirement is to minimize ground disturbance in sensitive areas. The language in section V.F.1 has been modified to specify that equipment and vehicle staging and maintenance can be within 100 feet of waters of the state and riparian areas if it is limited to existing roads, parking areas, and other pre-disturbed sites.

SLO Co. FSC - 89

*Page 19 – Section V.F.3 – Draft Order Text: General Conditions for All Projects
Should say when equipment is present. Leaving cleanup materials in place during non operational periods is impractical.*

Staff Response to Comment SLO Co. FSC - 89

This requirement is not intended to be in effect during projects' inactive stages when there is no potential for a spill. Regardless, additional language has been added to further clarify this point, as well as to indicate the requirement only applies to projects using heavy equipment. This requirement is consistent with provisions in other Water Board orders to protect waters of the State.

SLO Co. FSC - 90

*Page 20 – Section V.F.5 – Draft Order Text: General Conditions for All Projects
May not be practical when unrelated normal ranch or other land use operations are routinely be conducted on same property.*

Staff Response to Comment SLO Co. FSC - 90

The language has been revised to clarify that the requirement applies specifically to transitioning between sites with known invasive species and/or pathogens, rather than for every entry and exit from a project area.

SLO Co. FSC - 91

*Page 20 – Section V.G.1.b – Draft Order Text: General Conditions for All Projects
Removal may be impractical, especially by Sept 30 if rule applies across the entire region landmass. Prescribed burn operations routinely occur in the Fall after Sept 30. Piles and pre treated vegetation remains on site to be burned in the prescribed fire event.*

Staff Response to Comment SLO Co. FSC - 91

The Order does not apply to the entire region landmass but only surface waters of the state and riparian areas. Additionally, it has been revised to only include local responsibility areas. Downed vegetation and large woody debris not being retained on site for habitat benefit must be removed from waters of the state by September 30 of each year.

SLO Co. FSC - 92

*Page 21 – Section V.G.1.f – Draft Order Text: General Conditions for All Projects
It may be impractical to locate Portable toilets 100 feet from the “waters of the state” when the only road is located within 100 feet. It is common understanding that if the portable toilet is too far away people will choose to not use it and “go behind a tree” instead.*

Staff Response to Comment SLO Co. FSC - 92

The Order has been amended to allow staging of sanitation facilities on existing roads or paved surfaces and on unpaved surfaces closer than 100 feet from waters of the state and riparian areas if 100 feet away is not practicable.

SLO Co. FSC - 93

*Page 21 – Section V.H.3 – Draft Order Text: General Conditions for All Projects
Can this be a person trained in paragraph H. 2 TRAINING above, or is there a standard qualification?*

Staff Response to Comment SLO Co. FSC - 93

There is not a standard qualification. The term “qualified professional” has been replaced by the term “individual” in requirement V.H.2. The trainer can be a person who is knowledgeable about the requirements of this Order and state and federal laws regarding the protection of water quality, waters of the state, and related special status species. Training requirement V.H.3 requiring an onsite monitor has been removed. Dischargers with Category B projects must still implement monitoring as required in section XI to ensure protection of water quality and compliance with conditions of the Order.

SLO Co. FSC - 94

*Page 22 – Section VI.A.1 – Draft Order Text: Additional General Conditions for Category B Projects
This seems to preclude defensible space which is an annual requirement.*

Staff Response to Comment SLO Co. FSC - 94

The Order has been edited at section II.A.2 to include defensible space activities conducted in accordance with municipal codes and the Public Resource Code sections 4291-4293 as Category A activities. The words "one-time" have been removed to allow for actions like defensible space requirement vegetation removal activities to be repeated on an annual basis, as needed.

SLO Co. FSC - 95

*Page 22 – Section VI.A.2 – Draft Order Text: Additional General Conditions for Category B Projects
Defensible space clearance is an annual requirement and extends multiple years beyond the five year window.*

Staff Response to Comment SLO Co. FSC - 95

The Order has been edited at section II.A.2 to include defensible space activities conducted in accordance with municipal codes and the Public Resource Code sections 4291-4293 as Category A activities. The words "one-time" have been removed to allow for actions like defensible space requirement vegetation removal activities to be repeated on an annual basis, as needed.

SLO Co. FSC - 96

*Page 22 – Section VI.A.3 – Draft Order Text: Additional General Conditions for Category B Projects
Very impractical for long term vegetation activities for fire hazard/risk reduction and ecological restoration that takes decades to complete.*

Staff Response to Comment SLO Co. FSC - 96

Dischargers that wish to continue project activities after the conclusion of the five-year permit term must re-apply. This condition is typical for long-term projects and is included in the Order to ensure that the information in the notice of intent about project locations and methods is accurate, that any compliance issues are addressed, and that compensatory mitigation for cumulative impacts of repeated activities is completed.

SLO Co. FSC - 97

Page 22 – Section VI.B.2 – Draft Order Text: Additional General Conditions for Category B Projects

Need to also include electronic markings where flagging is not advised or not appropriate.

Staff Response to Comment SLO Co. FSC - 97

The flagging or staking serves to delineate project areas onsite so that during project activities impacts do not occur outside of the permitted area. Order language has been amended to include the option to use handheld devices or devices in project equipment that enable dischargers to track their location relative to the boundaries of the project area, sensitive resources to be avoided, and the boundaries of any invasive species removal areas.

SLO Co. FSC - 98

Page 22 – Section VI.B.3 – Draft Order Text: Additional General Conditions for Category B Projects

Need to also include electronic markings where flagging is not advised or not appropriate.

Staff Response to Comment SLO Co. FSC - 98

Permit language has been amended to include the option to use handheld devices or devices in project equipment that enable dischargers to track their location relative to the boundaries of the project area, sensitive resources to be avoided, and the boundaries of any invasive species removal areas.

SLO Co. FSC - 99

Page 22 – Section VI.B.5 – Draft Order Text: Additional General Conditions for Category B Projects

Visible markings may be NOT be appropriate when marking certain features that are sensitive to public exposure (confidential or cultural resources).

Staff Response to Comment SLO Co. FSC - 99

Permit language has been amended to include the option to use handheld devices or devices in project equipment that enable dischargers to track their location relative to the boundaries of the project area, sensitive resources to be avoided, and the boundaries of any invasive species removal areas.

SLO Co. FSC - 100

Page 22 – Section VI.C.1 – Draft Order Text: Additional General Conditions for Category B Projects

Who determines “the minimum necessary”?

Staff Response to Comment SLO Co. FSC - 100

The "minimum necessary" is typically determined by the discharger based on site conditions and best practices, but it is subject to review by regulatory agencies to ensure compliance with environmental standards.

SLO Co. FSC - 101

Page 22 – Section VI.C.2 – Draft Order Text: Additional General Conditions for Category B Projects

“Least impactful” methods may not be practical nor feasible.

Staff Response to Comment SLO Co. FSC - 101

The Order only applies to work conducted in surface waters of the state and riparian areas. To protect these valuable resources, the Order requires use of the least impactful methods that can practically achieve project goals. If a more protective method is not practical to achieve the project's goals, more impactful methods may be used. Avoidance and minimization of impacts to surface waters of the state is a standard approach for protecting surface waters of the state and riparian areas, as exhibited by the State Water Resources Control Board's *State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. It is also worth noting that section I.A of the Order has been modified to limit application of the Order to local responsibility areas.

SLO Co. FSC - 102

Page 23 – Section VII.A.1 – Draft Order Text: Activity-Specific Conditions for All Projects

What is the scientific basis for a 4 inch DBH standard? Frequently there are already too many trees per acre (due to natural fire exclusion) and thinning to more natural conditions requires reducing the number of stems per acre including those over 4 inch DBH when site conditions support that prescription.

Staff Response to Comment SLO Co. FSC - 102

The requirements of the Order are intended to maintain the functions and beneficial uses of surface waters of the state and riparian areas as identified by the Central Coast Riparian Rapid Assessment Method (RipRAM). RipRAM is a United States Environmental Protection Agency (USEPA)-funded, Central Coast-specific methodology developed in a joint effort by the Central Coast Wetlands Group, the Southern California Coastal Water Research Project, the San Francisco Estuary Institute, and others. The method is tailored to Central Coast conditions and was validated at Central Coast locations. The metrics RipRAM uses to indicate ecological functions and benefits, and which the Order seeks to maintain, include total riparian cover, vegetation cover structure, vegetation cover quality, age diversity and natural regeneration, riparian vegetation width, riparian soil condition and permeability, macroinvertebrate habitat patch richness, and anthropogenic alterations to channel morphology. The California Rapid Assessment Method (CRAM) also includes metrics for surface waters of the state habitat health similar to those used by RipRAM. CRAM is applied to streams and areas immediately adjacent to streams. The Order also aims to preserve stream health in accordance with CRAM metrics.

Native trees with 4-inch diameter at breast height (dbh) or greater and native tree canopy are components of the following RipRAM metrics: total riparian cover, vegetation cover structure, vegetation cover quality, and age diversity and natural regeneration. Native trees with 4-inch

dbh or greater and native tree canopy increase total riparian cover, contribute positively to vegetation structure, improve vegetation cover quality by providing native species and creating gallery structure, and exhibit vegetation community age diversity and natural regeneration. Considering the functions and values provided by native trees with 4-inch dbh or greater and native tree canopy, it is important to minimize removal of such trees for the majority of riparian areas in local responsibility areas. That being said, there is the possibility for uncommon riparian areas on the Central Coast to benefit in terms of riparian functions and values from thinning of such trees.

To accommodate this possibility, the Order's requirements that are applicable to all projects conducting vegetation management and removal have been edited to focus on preservation of vegetative cover, structure, and quality, rather than preservation of trees of a particular size. The edits are consistent with the riparian protection requirements of the California Vegetation Treatment Program (CalVTP) program, which has already been approved by the State Water Resources Control Board. In addition, the Order's requirements for mitigation for removal of native trees has been edited to provide dischargers the option to demonstrate their proposed tree removal will provide benefits to riparian functions and values. Dischargers can do so by comparing proposed riparian conditions with a reference site or by demonstrating proposed riparian conditions will improve the site's RipRAM score.

SLO Co. FSC - 103

*Page 23 – Section VII.A.2 – Draft Order Text: Activity-Specific Conditions for All Projects
What is 6 foot ladder fuel standard based on? Understory vegetation and lower limb flammability circumstances determine appropriate ladder fuel separation versus a set arbitrary height.*

Staff Response to Comment SLO Co. FSC - 103

Central Coast Water Board staff recognizes that appropriate heights can vary based on site-specific conditions. The permit language has been modified to allow flexibility in ladder fuel removal heights by increasing the removal height to eight feet from the ground, unless site-specific conditions and professional judgment deem a greater height necessary.

SLO Co. FSC - 104

*Page 23 – Section VII.A.3 – Draft Order Text: Activity-Specific Conditions for All Projects
This seems to contradict earlier rule in this order that says all woody material must be removed from the site by Sept 30.*

Staff Response to Comment SLO Co. FSC – 104

Section V.G.1.b specifies that debris not being retained on site for habitat benefit must be removed by September 30. Section VII.A.4 has been modified to also clarify that large woody debris is to be retained to the maximum extent practicable for habitat benefit.

SLO Co. FSC - 105

*Page 23 – Section VII.A.4 – Draft Order Text: Activity-Specific Conditions for All Projects
Removal of all slash on project site is impractical; frequently is piled for subsequent burning.*

Staff Response to Comment SLO Co. FSC - 105

Section VII.A.4 has been removed from the Order.

SLO Co. FSC - 106

*Page 23 – Section VII.A.7.a – Draft Order Text: Activity-Specific Conditions for All Projects
VER impractical work windows with mechanized equipment during high fire season . Dangerous
bordering on negligence.*

Staff Response to Comment SLO Co. FSC - 106

Section V.D.2 has been revised to allow year-round vegetation management and removal activities for fire risk reduction. The work window for sediment removal and management activities has been updated to June 1 to September 30.

SLO Co. FSC - 107

*Page 24 – Section VII.B.4 – Draft Order Text: Activity-Specific Conditions for All Projects
Who determines the “maximum extent practicable”?*

Staff Response to Comment SLO Co. FSC - 107

The "maximum extent practicable" is typically determined by the discharger based on site conditions and best practices, but it is subject to review by regulatory agencies to ensure compliance with environmental standards.

SLO Co. FSC - 108

*Page 24 – Section VII.B.5 – Draft Order Text: Activity-Specific Conditions for All Projects
Better definitions needed here; “head fires” can be described as fast moving high intensity fires.*

Staff Response to Comment SLO Co. FSC - 108

Section VII.B.5 has been removed from the Order.

SLO Co. FSC - 109

*Page 24 – Section VII.B.6 – Draft Order Text: Activity-Specific Conditions for All Projects
Who determines the schedule and area to be burned when it is “to the maximum extend
practicable”?*

Staff Response to Comment SLO Co. FSC - 109

The schedule and area to be burned are typically determined by the discharger, such as the landowner or burn boss, based on site conditions, safety, and project goals. This is subject to review by regulatory agencies to ensure compliance with environmental standards.

SLO Co. FSC - 110

*Page 24 – Section VII.B.9 – Draft Order Text: Activity-Specific Conditions for All Projects
What is the basis for this rule? Burn piles are frequently wind rowed in order to get them to burn.*

Staff Response to Comment SLO Co. FSC - 110

Section VII.B.9 has been removed from the Order.

SLO Co. FSC - 111

*Page 24 – Section VII.C.1 – Draft Order Text: Activity-Specific Conditions for All Projects
Is this a 24 hour per day supervision?*

Staff Response to Comment SLO Co. FSC - 111

Section VII.C.1 has been modified to clarify that monitoring be conducted during prescribed herbivory operations as necessary to ensure adherence to the prescribed herbivory plan, rather than requiring a monitor to be on site during all operations.

SLO Co. FSC - 112

*Page 25 – Section VII.C.7 – Draft Order Text: Activity-Specific Conditions for All Projects
What happens to livestock already on site when there is a prediction of a .25 inch rain in 24 hours but no additional rain forecast?*

Staff Response to Comment SLO Co. FSC - 112

Introduction of animals to the project area for the primary purpose of fire fuel reduction prescribed herbivory should be planned during periods without predicted rainfall. In the event of unexpected precipitation or a forecast of a 30% chance of 0.25 inches of rain within 24 hours, animals introduced to the project area for the primary purpose of fire risk reduction prescribed herbivory should be moved out of waters of the state and riparian areas.

SLO Co. FSC - 113

*Page 25 – Section VII.D.1 – Draft Order Text: Activity-Specific Conditions for All Projects
Shouldn't this be "in accordance with certified pest control advisor's and manufacturer's recommendation"?*

Staff Response to Comment SLO Co. FSC - 113

Section VII.D.1 has been revised to specify that herbicides used within waters of the state and riparian areas must be approved and currently registered for aquatic use in California.

Section VII.D.4 (formerly section V.D.3) specifies that the Discharger or practitioner applying herbicides must have all necessary state and local applicator licenses and identifies the assessment to be conducted to determine that herbicide use is appropriate. A certified pest control advisor may assist with this determination as appropriate, though it is not specifically required by the Order.

The condition that herbicides be mixed and applied in conformance with the manufacturer's instructions and product label is included in section V.D.5.

SLO Co. FSC - 114

*Page 28 – Section VIII.A.2 – Draft Order Text: Additional Activity-Specific Conditions for
Category B Projects
Is this standard (modeling) available to any landowner?*

Staff Response to Comment SLO Co. FSC - 114

The requirements for modeling only apply to high tier Category B projects and therefore will be limited in their application. Since the modeling requirements apply to the largest projects authorized by the Order, the potential burden of modeling requirements is proportional to project impact. HEC-RAS is a reliable modeling software that is free to download. Data collection is expected to be part of the design process for flood projects and any additional data needed for flood modeling can be accomplished as part of the same project preparations without undue burden.

Regarding sediment management, the requirement for modeling has been edited to provide the option for applicants to provide an analysis demonstrating the proposed sediment removal does not exceed conditions necessary to maintain design or natural flow conveyance capacity, in order to be consistent with eligibility requirements of the Order. Regarding modeling for assessment of fluvial geomorphological impacts, the Order has been edited to allow for analysis of potential impacts, as an option to modeling.

SLO Co. FSC - 115

Page 29 – Section VIII.A.3.a – Draft Order Text: Additional Activity-Specific Conditions for Category B Projects

Who determines how this standard is applied on a specific project site?

Staff Response to Comment SLO Co. FSC - 115

The discharger, in consultation with relevant experts, determines how the mosaic vegetation management standard is applied on a specific site. While the discharger has the responsibility to implement the standard, the determination is subject to review by regulatory agencies, such as the Central Coast Water Board, to ensure that it aligns with the objectives of the Order and is protective of water quality.

SLO Co. FSC - 116

Page 30 – Section IX.A.1 – Draft Order Text: Temporary Impacts Restoration and Compensatory Mitigation for Temporal and Permanent Impacts for Category B Projects
If project goal is to reduce amount of vegetation to avoid damage from high intensity wildfire; doesn't restore to "pre-project conditions" negate the project goals?

Staff Response to Comment SLO Co. FSC – 116

Fire risk reduction projects can include elements such as creation of temporary access to waters of the state, which can be feasible to restore without contradicting vegetation reduction objectives. All temporary restoration and compensatory mitigation activities are expected to be conducted in a manner that aligns with project goals. Section IX.A Temporary Impacts Restoration has been revised to more accurately describe the expected post-project conditions for temporary impact areas.

SLO Co. FSC - 117

Page 31 – Sections IX.B.1.a-c – Draft Order Text: Temporary Impacts Restoration and Compensatory Mitigation for Temporal and Permanent Impacts for Category B Projects
Defensible space required by local ordinance meets these criteria. Additionally, the project goal is to reduce over accumulation of vegetation, trees, canopy, etc that would have been naturally reduced if not for artificial fire exclusion.

Staff Response to Comment SLO Co. FSC - 117

The Order has been edited at section II.A.2 to include defensible space activities conducted in accordance with municipal codes and the Public Resource Code sections 4291-4293 as Category A activities. The words "one-time" have been removed to allow for actions like defensible space requirement vegetation removal activities to be repeated on an annual basis, as needed.

SLO Co. FSC - 118

*Page 31 – Section IX.B.5 – Draft Order Text: Temporary Impacts Restoration and Compensatory Mitigation for Temporal and Permanent Impacts for Category B Projects
Tree removal and subsequent replacement is not practical in all instances. For example where there are already too many trees per acre due to natural fire exclusion adding more by replanting is not scientifically advised; in fact it may exacerbate the problem. Tree replacement should not be a formula without consideration of the site conditions and appropriate silviculture for the species as recommended by a qualified forester.*

Staff Response to Comment SLO Co. FSC - 118

This Order regulates activities within surface waters of the state and riparian areas, where trees provide distinct ecological functions. Temporary restoration and compensatory mitigation activities are allowed to be conducted in a manner that aligns with fire risk reduction project goals, such as through offsite tree replacement. Fire risk reduction projects may also involve activities such as creating temporary access to waters of the state, which can be restored in a manner that remains compatible with fuel reduction objectives. Section IX.A Temporary Impacts Restoration has been updated to more accurately describe the expected post-project conditions for areas temporarily impacted. In addition, the Order allows applicants to propose alternative mitigation approaches to tree replacement. It has also been modified to allow applicants to demonstrate improved functions and benefits of treated areas in lieu of mitigation.

SLO Co. FSC - 119

*Page 32 – Section IX.B.8 – Draft Order Text: Temporary Impacts Restoration and Compensatory Mitigation for Temporal and Permanent Impacts for Category B Projects
Site conditions and silviculture for species must be consideration of mitigation as determined by a qualified forester.*

Staff Response to Comment SLO Co. FSC - 119

This Order regulates activities within surface waters of the state and riparian areas, where trees provide distinct ecological functions. Temporary restoration and compensatory mitigation activities are allowed to be conducted in a manner that aligns with fire risk reduction project goals, such as through offsite tree replacement. Fire risk reduction projects may also involve activities such as creating temporary access to waters of the state, which can be restored in a manner that remains compatible with fuel reduction objectives. Section IX.A Temporary Impacts Restoration has been updated to more accurately describe the expected post-project conditions for areas temporarily impacted. In addition, the Order allows applicants to propose alternative mitigation approaches to tree replacement. It has also been modified to allow applicants to demonstrate improved functions and benefits of treated areas in lieu of mitigation. These approaches allow for consideration of recommendations from a qualified forester.

SLO Co. FSC - 120

*Page 36 – Section IX.B.11.i – Draft Order Text: Temporary Impacts Restoration and Compensatory Mitigation for Temporal and Permanent Impacts for Category B Projects
How does this apply when the trash being removed is from activities of others or illegal activity on landowners property where leaving the material in place presents a greater environmental impact than the action of removing it?*

Staff Response to Comment SLO Co. FSC - 120

Trash removal as compensatory mitigation is an optional activity offered to offset impacts to waters of the state or riparian areas, regardless of the source of the trash. Whether the trash

originates from illegal activities or other causes on a landowner's property, its removal can still qualify as mitigation.

SLO Co. FSC - 121

Page 37 – Section X – Draft Order Text: Activity-Specific Required Plans for Category B Projects

Defensible space is included in this category by definition within the order. These requirements are impractical for areas that have previously conducted defensible space activities for years.

Staff Response to Comment SLO Co. FSC - 121

The Order has been edited at section II.A.2 to include defensible space activities conducted in accordance with municipal codes and the Public Resource Code sections 4291-4293 as Category A activities. The words "one-time" have been removed to allow for actions like defensible space requirement vegetation removal activities to be repeated on an annual basis, as needed.

SLO Co. FSC - 122

Page 37 – Section X.A.1.c – Draft Order Text: Activity-Specific Required Plans for Category B Projects

"Minimum amount necessary" determined by whom?

Staff Response to Comment SLO Co. FSC - 122

The "minimum amount necessary" is typically determined by the discharger based on site conditions and best practices, but it is subject to review by regulatory agencies to ensure compliance with environmental standards.

SLO Co. FSC - 123

Page 37 – Section X.A.1.e – Draft Order Text: Activity-Specific Required Plans for Category B Projects

This entire rule is subject to confusion if the area is riparian only or the entire water board region landmass.

Staff Response to Comment SLO Co. FSC - 123

The Order only regulates activities in surface waters of the state and riparian areas. It does not regulate sediment and vegetation discharges onto other land areas that may eventually enter groundwater. The word "surface" has been added to the term "waters of the state" throughout.

SLO Co. FSC - 124

Page 38 – Section X.A.1.k – Draft Order Text: Activity-Specific Required Plans for Category B Projects

Defensible space falls under high tier definition.

Staff Response to Comment SLO Co. FSC - 124

Defensible space activities are Category A and not subject to these Category B requirements. The Order has been edited at section II.A.2 to include defensible space activities conducted in accordance with municipal codes and the Public Resource Code sections 4291-4293 into Category A. Additionally, the words "one-time" have been removed to allow for actions like

defensible space requirement vegetation removal activities to be repeated on an annual basis, as needed.

SLO Co. FSC - 125

Page 39 – Section X.B.1 – Draft Order Text: Activity-Specific Required Plans for Category B Projects

These standards are not required by law for certain types of burns on private lands solely using private funds. Does this order create a new condition and expense that is not required elsewhere in law?

Staff Response to Comment SLO Co. FSC - 125

The requirement to submit a prescribed fire plan has been removed from sections VIII.B.1 and X.B.

SLO Co. FSC - 126

Page 42 – Section X.E – Draft Order Text: Activity-Specific Required Plans for Category B Projects

Does this include invasive species control for non fire hazard reduction purposes, such a star thistle, distaff, or medusa head where fire is a control tool.

Staff Response to Comment SLO Co. FSC - 126

The Order regulates vegetation and sediment removal and management activities conducted for the primary purpose of fire or flood risk reduction. It does not regulate such activities conducted for other primary purposes.

SLO Co. FSC - 127

Page 45 – Section XI.A.1 – Draft Order Text: Monitoring for Category B Projects

Who will conduct the monitoring and what will landowner be charged?

If entry to private property is required to conduct the monitoring and this rule grants that permission to water board or other public officials where before a judge issued warrant would have been required. If so, will this create a condition wherein private landowners that do not want monitors on their property choose not to conduct a project even though it is desirable because their private property rights are more important to them.

Staff Response to Comment SLO Co. FSC - 127

Monitoring does not need to be conducted by a public official and monitors would be selected by the landowner, or the landowner may conduct their own monitoring. For smaller projects, monitoring can include qualitative descriptions of site conditions and photo documentation. Central Coast Water Board staff regularly provide guidance to dischargers who are private landowners to enable them to conduct sufficiently accurate and detailed monitoring. Central Coast Water Board staff only anticipate inspecting Category B projects, since Category A projects are non-notifying. Most Category B projects are unlikely to be conducted by private landowners. While inspections of Category B projects will be rare, they can be warranted due to the potential impact of Category B projects on water quality and beneficial uses.

SLO Co. FSC - 128

Page 45 – Section XI.A.5 – Draft Order Text: Monitoring for Category B Projects

Defensible space and weed abatement ordinances is going to require monitoring.

Staff Response to Comment SLO Co. FSC - 128

Central Coast Water Board staff developed this Order with the intention of categorizing all defensible space activities as Category A. To clarify, the Order has been edited at section II.A.2 to include defensible space activities conducted in accordance with municipal codes and the Public Resource Code sections 4291-4293 as Category A activities. The words "one-time" have been removed to allow for actions like defensible space requirement vegetation removal activities to be repeated on an annual basis, as needed. With these changes, defensible space activities will be Category A activities and will not require monitoring.

SLO Co. FSC - 129

*Page 58 – Attachment A Section I.A.2 – Draft Order Text: Activity Tiering
Defensible space and weed abatement are Medium or higher.*

Staff Response to Comment SLO Co. FSC - 129

Central Coast Water Board staff developed this Order with the intention of categorizing all defensible space activities as Category A. To clarify, the Order has been edited at section II.A.2 to include defensible space activities conducted in accordance with municipal codes and the Public Resource Code sections 4291-4293 as Category A activities. The words "one-time" have been removed to allow for actions like defensible space requirement vegetation removal activities to be repeated on an annual basis, as needed.

Times - 1

What is the background of the people writing this proposed order?

Staff Response to Comment Times - 1

The Order is being written by a team of water resource control engineers, environmental scientists, and engineering geologists. The team has education, training, and experience in biology, botany, watershed science, hydrology, fluvial geomorphology, geology, fire ecology, and other scientific disciplines.

Times - 2

*Is he/she familiar with native Americans' use of monitored fire to regenerate lands?
Is he/she familiar with prescribed burns taking place now in conjunction with native Americans?*

Staff Response to Comment Times - 2

Central Coast Water Board staff is aware of Native American tribal burns and does not expect for this Order to interfere with these valuable practices. Prescribed fires are Category A (non-notifying) projects, provided basic protective measures are followed.

Times - 3

Is he/she familiar with the Central Coast Prescribed Burn Association?

Staff Response to Comment Times - 3

Central Coast Water Board staff reached out to the Central Coast Prescribed Burn Association (CCPBA) on May 3, 2023, by emailing four members to gather information on their fire risk reduction activities and to invite their input on the Order. Additionally, staff followed up with this request in-person with the CCPBA Program Manager at the California Chaparral Symposium on May 7, 2023. Unfortunately, we did not receive a response, and as a result, we were unable to coordinate further with the group prior to the release of the Order. We renewed our offer to meet

with the CCPBA after the public comment period, met with representatives on November 1, 2024, and have addressed their feedback prior to the release of the revised draft.

Times - 4

Was the association or native tribes consulted before proposing this new rule?

Staff Response to Comment Times - 4

Both the CCPBA and native tribes were offered the opportunity for consultation but did not responding to requests for consultation. On May 15, 2023, the Central Coast Water Board provided formal notification and an opportunity for consultation to all California Native American tribes in the Central Coast Region. The Central Coast Water Board follows the State Water Resources Control Board's Tribal Consultation Policy, which can be viewed at: https://www.waterboards.ca.gov/about_us/public_participation/tribal_affairs/docs/california_water_board_tribal_consultation_policy.pdf.

Times - 5

In our area, where 911 homes were destroyed by the 2020 CZU fire, and most have not been replaced, meaning housing is in even short supply and is ever more expensive, and our home insurance is double and triple what it was in 2019, we have not heard ANYTHING about this proposed rule, and the deadline to comment is in 5 days. How is this good government? It seems like a knee-jerk reaction with failure to consult local stakeholders, jumping to a conclusion without considering all the possibilities and ramifications. What other options were investigated? Any?

Staff Response to Comment Times - 5

The Central Coast Water Board is committed to stakeholder outreach and responding to feedback on the Order. Prior to issuance of the Order for public comment, outreach was conducted with known interested parties and a CEQA scoping meeting was held on July 18, 2023. A public workshop on the Order was held June 2024. Since the end of the public comment period, Central Coast Water Board staff has met and discussed feedback with additional stakeholders. A revised draft is being circulated along with this response to comments. The public comment period on the revised draft is 30 days. An Environmental Impact Report for the Order will be available later this year for public comment as well. After the Environmental Impact Report is finalized, the Order will be presented at a meeting of the Central Coast Water Board in early 2026. The Order facilitates permitting of fire risk reduction activities within surface waters of the state and riparian areas. The current permitting option for such activities involves issuance of an individual permit, which is more time intensive. The Order only regulates activities in surface waters of the state and riparian areas. Activities such as prescribed burns and defensible space work are non-notifying. The Order has been edited to only apply in local responsibility areas.

Times - 6

I appreciate the native tribes sharing with us the benefits of tribal use of fire, and hampering their efforts strikes me as disrespectful.

Staff Response to Comment Times - 6

Central Coast Water Board staff does not anticipate that this Order will interfere with tribal use of fire. Prescribed fires are Category A (non-notifying) projects, provided basic protective measures are followed.

Times - 7

I think this proposal needs a lot of more vetting with stakeholders before it goes to a vote by regulators.

Staff Response to Comment Times - 7

The Central Coast Water Board is committed to stakeholder outreach and responding to feedback on the Order. Prior to issuance of the Order for public comment, outreach was conducted with known interested parties and a CEQA scoping meeting was held on July 18, 2023. A public workshop on the Order was held June 2024. Since the end of the public comment period, Central Coast Water Board staff has met and discussed feedback with additional stakeholders. A revised draft is being circulated along with this response to comments. The public comment period on the revised draft will be approximately 30 days. An Environmental Impact Report for the Order will be available for public comment as well. After the Environmental Impact Report is finalized, the Order will be presented at a public board meeting of the Central Coast Water Board in early 2026.

Times - 8

If you want to protect us, why not investigate PFAS forever chemicals (which cause cancer) used in electrical vehicles' lithium ion batteries?

Staff Response to Comment Times - 8

While this comment is not on the subject of the Order, the State Water Resources Control Board reference page for PFAS is located here: <https://www.waterboards.ca.gov/pfas/>. The Central Coast Water Board is participating in these efforts to address the effects of PFAS on water quality once these chemicals enter into waters of the state, holding responsible parties accountable for treating waters of the state contaminated with PFAS, and finding out how to prevent more PFAS from being discharged into waters of the state.

ARC - 1

- 1) *Generally speaking, sediment removal from a channel or from a storm event vs. vegetative treatment for fuels reduction are two very different actions. the order does not clearly differentiate what practices are for sediment removal and what practices are for vegetative treatments.*
- 2) *In addition, many specific activity requirements adopted in this draft order lack clarity for those who need to implement them where in most cases, these rules exist in the FPR's or CalVTP Standard Project Requirements. Land stewards and contractors need continuity among rule sets to implement appropriately to protect waters of the state. Recommend that CCRWQCB look closely at where they can utilize and make reference to rules that have already been approved, especially for vegetation management, that are supported or have already been approved by State Water Quality such as the FPR's or CalVTP.*

Staff Response to Comment ARC - 1

Fire and flood risk reduction activities both involve vegetation removal and produce similar wastes and concentration of wastes, including sediment, vegetative material, herbicides, bacteria, nutrients, and petroleum products. The Order's requirements are activity-specific rather than purpose-specific, allowing the relevant requirements to be applied based on the

nature of the activity. The Order's headings distinguish which requirements apply to which activities. Central Coast Water Board staff reviewed the CalVTP and incorporated management practices where appropriate. For instance, the equipment exclusion and limitation zones, canopy protections, rain event restrictions, and sediment and erosion control measures align closely with CalVTP standards to ensure consistent protection of water quality. The Order has been modified to apply only within local responsibility areas, eliminating overlap with CalVTP-regulated areas. The Order will not interfere with other existing regulations, such as those for defensible space.

ARC - 2

Page 18 (D. Project Timing), (1.) – Recommend changing to a 30% forecast and .20 inch of rain in 24 hours (Predicted Rain Event) to maintain continuity with Cal VTP PSA's for CRLF from USFWS and FPR recommendations for CRLF from USFWS. Although it is species specific to CRLF, it maintains alignment with regulatory requirements that contractors and land stewards already have memorized and implement consistently. The addition of a slightly increased standard will create unnecessary confusion and are less likely to increase protections already in place in most any regulatory document.

Staff Response to Comment ARC - 2

The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

ARC - 3

Page 18 (D. Project Timing), (2.) – Recommend following the operational guidelines in the FPR's and CalVTP that have been utilized successfully for vegetative treatments and not set a May 1 to November 30th operational window. Suggested language to consider: Equipment operations should be limited on rainfall amounts and time frames for start-up following rain events i.e. .2 inches of rain 24 hour shut down (meshes with USFWS requirements), .2-1.0 inches 48 shutdown, 1-2 inches 72 hour shutdown, no operations on saturated soils, operations may only occur from a stable operating surface, no equipment operations in a watercourse and lake protection zone unless it is from an existing road, etc...

- a. Instituting this time frame will create significant cumulative impacts to vegetative treatment operations already constrained by nesting bird season – February 1st – August 15th, specifically Marbled Murrelet - March 23rd - September 1st, CRLF movement period - October 1st to May 1st each year upon a ¼" of rain. Its why the FPR's and CalVTP PEIR were developed in a manner that allows operations based on conditions rather than dates.*

Staff Response to Comment ARC - 3

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to allow year-round vegetation management and removal activities for fire risk reduction. The work window for sediment removal and management project activities has been updated to June 1 to September 30.

ARC - 4

Page 18 (E. Roads),(1-5)

- b. *Unclear what part of this order is for sediment removal and what is for vegetative treatments. For example, Item 2. "Equipment shall not be driven through any wetted channel unless to accomplish sediment removal following diversion and dewatering". This would never be proposed as part of any vegetation removal project and should be separated within the order.*
- c. *It is unclear whether an access road or access route is different or the same as an existing road. Recommend defining.*

Staff Response to Comment ARC - 4

Headings within the Order state which requirements apply to all projects, which apply to Category B projects, or if requirements are activity-specific, either for all projects or with additional required measures for Category B projects. General conditions should be interpreted as conditions that apply to all projects and therefore are more general protective measures. The general conditions should be considered if applicable. The condition to not drive equipment through wetted channels applies to both flood risk reduction and fire risk reduction activities, but with a necessary exception that applies to some sediment removal activities. Activity-specific conditions are more detailed requirements for specific classes of activities. The term "access roads" in section V.E refers to temporary roads created specifically for project ingress and egress. The language has been modified for clarity.

ARC - 5

Page 19 (F. Equipment and Vehicles),(1-5)

- a. *Staging and maintenance areas 100 feet from away from waters of the state. 65 feet was deemed sufficient within the statewide CalVTP EIR for vegetative treatments by SWQCB. Seems that if this was considered appropriate for a statewide PEIR that it could be considered for vegetative treatments in CCRWQCB's order. Consider separating sediment reduction and vegetative treatments in this order if the 100 feet is really more appropriate for sediment removal than vegetation treatments.*

Staff Response to Comment ARC - 5

The intention of this requirement is to minimize ground disturbance in sensitive areas. The language in section V.F.1 has been modified to specify that equipment and vehicle staging and maintenance can be within 100 feet of waters of the state and riparian areas if it is limited to existing roads, parking areas, and other pre-disturbed sites.

ARC - 6

Page 22 (B. Project Delineation)

- a. *Clearly identify and delineate, by flagging or staking, the boundaries of the project area or invasive species removal areas. Project boundaries and invasive species removal areas are successfully delineated for operations in ARC GIS Field Maps, or Avenza and should be an accepted method to reduce flagging or staking on the landscape.*

Staff Response to Comment ARC - 6

The flagging or staking serves to delineate project areas onsite so that during project activities, impacts do not occur outside of the permitted area. Permit language has been amended to include the option to use handheld devices or devices in project equipment that enable

dischargers to track their location relative to the boundaries of the project area, sensitive resources to be avoided, and the boundaries of any invasive species removal areas.

ARC - 7

Page 23 (A. Vegetation Removal or Management) – Recommend a clear delineation between what is for sediment removal and what is for vegetation removal – For example, (A. Vegetation Removal or Management)(4.) It is highly unlikely that a vegetation removal project would “work all slash into the soil” in a riparian area or in waters of the state” as part of a vegetation removal project.

- a. (A.)(5.) – “Avoid vegetation removal on unstable slopes or in areas prone to debris flows” – Vegetation removal projects are highly unlikely to remove vegetation from unstable areas (approved guidance in the FPR’s and CalVTP Standard Project Requirements on unstable areas.)

Staff Response to Comment ARC - 7

Condition VII.A.4 has been removed from the draft Order. We acknowledge the recommendation regarding vegetation removal on unstable slopes or areas prone to debris flows. The intent of this provision is to prevent further destabilization and protect water quality. The language in the Order is designed to reinforce existing best practices and ensure consistency in water quality protection across all project types.

ARC - 8

Page 24 (C. Prescribed Herbivory) (1-9) – Livestock, herbivory, grazing operations – First, this seems more specific to vegetative management than sediment removal. Importantly the terminology is unclear, is this about regulating cattle operations or goats and sheep? Several years ago, it seemed that CCRWQCB was not moving in a direction to regulate cattle operations. Has this changed?

Staff Response to Comment ARC - 8

This Order does not regulate cattle operations. Language was revised to clarify that this Order only applies to prescribed herbivory for vegetation removal and management for fire risk reduction. The use of the word livestock was eliminated, and the use of the word “grazing” was replaced with “prescribed herbivory” as necessary.

ARC - 9

A final observation regarding the order is that it will significantly impact the possibility for private landowners to conduct vegetation treatments to increase “Pace and Scale” on their lands without utilizing the Forest Practice Rules or the CalVTP, two very expensive endeavors that often require significant grant support. As part of the analysis for this order CCRWQCB should provide an analysis of costs expected for a landowner to follow the requirements of the proposed order.

Staff Response to Comment ARC – 9

Central Coast Water Board staff expects the cost of complying with the Order for most private landowners to be negligible. Most activities conducted by private landowners will be non-notifying under the Order and allowed to proceed as planned, provided basic protective

measures are implemented. Basic protective measures are required regardless of the Order. The Porter-Cologne Water Quality Control Act (California Water Code Div. 7) directs the Central Coast Water Board to regulate discharges of waste to protect the beneficial uses of waters of the state and the Basin Plan prohibits the discharge of materials to surface waters of the state in quantities deleterious to fish, wildlife, and other beneficial uses. Activities addressed by the Order that should not experience increased costs to private landowners include prescribed fire, maintenance of defensible space, CEQA exempt activities, small emergency activities, many dead tree and debris removal activities, various invasive plant treatments, limited prescribed herbivory, and activities limited to 0.1 acre or less. In addition, the Order will authorize many activities that would otherwise trigger individual waste discharge requirements, which are much more time intensive regulatory mechanisms, and therefore more costly to dischargers than this Order.

Activities requiring notification and active enrollment are most likely to be large projects conducted by public agencies. For such projects, the application fee is currently \$3,945. As with non-notifying projects, basic measures to protect water quality should be implemented regardless of the Order. As such, the cost of implementing such measures is not wholly attributable to the Order. However, costs will likely be incurred for notifying project planning activities such as project delineation, training, and development of activity-specific plans (e.g., vegetation management or sediment management plans). These activities are expected to cost \$2,000 to \$6,000, with the lower range of the cost estimate representing smaller lower impact projects and the upper range of the cost estimate representing more complex high impact projects. Restoration/mitigation plans are expected to range from \$2,000 to \$12,000 to develop. Implementation of restoration/mitigation, including maintenance, monitoring, and reporting, is expected to cost \$60,000 to \$120,000 per acre. Most restoration/mitigation projects will be much smaller than an acre. It is important to note that most or all of these costs can be avoided by designing projects to reduce impacts so that the projects are eligible to be non-notifying.

When discussing dischargers' costs of implementing the Order's requirements, it is also important to consider the alternative costs incurred by not implementing the Order's requirements, as well as the benefits that result from Order implementation. Riparian buffers can provide over \$10,000 per acre per year in monetized benefits, with additional non-monetized benefits expected to increase this total. Proximity to riparian areas can increase property values by 10 to 27 percent. Waters of the state and riparian areas provide wildlife and fish habitat. Recreation is one aspect of the value of wildlife and fish, with fishing-related expenditures in the United States estimated at more than \$37 billion in 1996. Riparian forests also intercept and absorb sediments, nutrients, and other pollutants. More than \$2 billion is spent annually in the United States for clean water initiatives, indicating the value of clean water. While it is difficult to fully characterize the monetary benefits of healthy surface waters of the state and riparian areas, it is clear the benefits are significant. The Order serves to preserve these benefits.

Manning - 1

Adding extra regulation will only discourage our work towards reviving these acres. It will make the process of obtaining permits more onerous and possibly discourage any progress toward a safer condition for not only our ridge, but also the surrounding settlements and ridges.

Staff Response to Comment Manning - 1

Central Coast Water Board staff expects the number of fire risk reduction projects that will fall under Category B to be relatively small. Only Category B projects must provide notification and enroll under the Order; other projects (Category A) can proceed without notification or enrollment, provided minimum best management practices are implemented. For example, all prescribed burn projects will be Category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas. As a result, Category B projects are primarily large municipal fire risk reduction and similar projects that clear substantial areas of surface waters of the state and riparian areas of vegetation. In recent years, these have been relatively rare within the region (i.e., one or two projects annually). Placement of these projects in Category B is warranted, due to their scope and impact on beneficial uses of surface waters of the state.

Manning - 2

By imposing such requirements for virtually every habitat type, this draft virtually restricts all activity on any parcel in the Santa Cruz Mountains. This is understandable when dealing with waterways with aquatic life (Class I and II). To apply such restrictions to Class III streams in non-sensitive habitat areas is overreach.

Staff Response to Comment Manning - 2

The Order does not address every habitat type. It only addresses surface waters of the state and riparian areas. The Order does not address all activities. It only addresses vegetation or sediment removal or management for the primary purpose of flood or fire risk reduction. The Order does not address all parcels in the Santa Cruz mountains. It has been edited to only address local responsibility areas.

Manning - 3

The draft further appears to relegate ordinary land management activities such as prescribed burning, limbing, thinning, and other sanctioned fire defense activities with earthworks activities that are clearly environmentally damaging activities such as dredging, grading, filling, etc. It feels like the intention is to discourage and render impossible low impact activities as though they are high-impact activities. I'm afraid your agency is conflating wildfire with prescribed burning, and limbing-thinning with earthmoving.

Staff Response to Comment Manning - 3

Vegetation management projects with similar categories of activities can be conducted to reach either fire or flood risk reduction goals. Projects proposed to the Central Coast Water Board have involved such activities as limbing, trimming, prescribed herbivory, and mowing. They can also include more impactful project elements such as constructing temporary access roads for access for equipment such as masticators. The loss of vegetation providing wildlife habitat and other water quality benefits is a negative impact, and repeated maintenance in a given area of waters of the state extends this impact. Order enrollment for these activities is a much more expedited and cost-effective process compared to individual waste discharge requirements, which are the current alternative. In the process of developing this Order, Central Coast Water Board staff has made an effort to streamline Order requirements for activities that have less

impact on water quality and beneficial uses of waters of the state, such as limiting the classes of impacts that require compensatory mitigation and extending the limits for qualification of Category A non-notifying and low tier projects. The Order includes separate conditions for sediment removal activities for flood risk reduction, which aligns with the point that grading activities have more impact.

Santa Cruz Co. FCD - 1

I.A: Waters of the state should be defined within this Draft Order, or another term should be employed to describe the intended jurisdictional boundary. Comments provided by CCWB staff at the Staff Public Workshop indicated that the intended jurisdictional boundary of the Draft Order was top of bank and areas with riparian vegetation. This should also be described in the Draft Order.

Staff Response to Comment Santa Cruz Co. FCD - 1

The definitions of waters of the state and riparian area in Attachment C have been revised to provide additional clarification on these areas. Staff will develop a reference figure for further guidance on interpreting the jurisdictional boundary for projects under this Order.

Santa Cruz Co. FCD - 2

I.B.3: Natural creeks and other undesigned waterways are not engineered and therefore lack documented flow capacities. Additionally, defining what would occur under a natural and periodically occurring range of channel forming conditions requires speculation by both the applicant and CCWB, which may lead to disagreement and reduce the effectiveness of the Draft Order. Sediment removal activities should be allowed to proceed under the Draft Order based on available managing agency records, including documented flooding issues, historic operations, or agency expertise.

Staff Response to Comment Santa Cruz Co. FCD - 2

Flow conveyance capacity of natural creeks may be estimated by onsite observations and further supported with reliable regional data. Managing agency records of creek dimensions, capacity, and historic operations are all examples of supporting information to demonstrate “previously documented creek capacity” per section I.B.3. The required compliant Sediment Removal or Management Plan (X.C) and complete notice of intent are intended to provide additional context for the scope of proposed activities and enable Central Coast Water Board staff to determine if the project meets the conditions in the Order. If the discharger wishes to conduct activities to increase flow capacity beyond the thresholds described in the Order, the discharger should apply for an individual permit. The Order is intended to cover limited flood control work in waters of the state; it is not intended to authorize redesign of natural waterbodies.

Santa Cruz Co. FCD - 3

II.A.7: We recommend that projects are allowed to be repeated annually for non-notification activities: Allowing repetition of small projects that otherwise meet the requirements will prevent small problems from becoming big problems that would require bulky analyses, review, and permitting (costly and time consuming for both discharger and CCWB staff).

Staff Response to Comment Santa Cruz Co. FCD - 3

Central Coast Water Board staff recommend that dischargers such as flood control agencies develop jurisdiction-wide maintenance programs for programmatic Clean Water Act section 401 water quality certifications so that dynamic annual maintenance needs are captured. Central Coast Water Board staff has specifically made this recommendation to the County of Santa Cruz multiple times.

Projects that cause repeated impacts to vegetation can result in permanent habitat conversion or cumulative impacts that prevent riparian habitat from establishing from natural recruitment. This is a long-term impact on beneficial uses at a project location and therefore it is not appropriate to include annual vegetation maintenance projects as non-notifying or as low tier.

Central Coast Water Board staff has revised the Order to include limited sediment removal without vegetation impacts repeated more than once every five years in the non-notifying category. As a clarification, sediment removal activities enrolled in the Order (including non-notifying activities) must be activities that are not eligible to enroll in other general orders such as the *Statewide General Waste Discharge Requirements for Dredge or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside Federal Jurisdiction (Water Quality Order 2004-0004)*.

Santa Cruz Co. FCD - 4

IIA.7.b: The term "temporary" needs clarification. Sediment removal is a permanent action; once removed, it is not replaced. Similarly, vegetation removed for flood risk management cannot be replaced. If "temporary impact" refers to avoiding conversion to hardscape or concrete, it should be explicitly stated as such. The distinction between temporary and permanent impacts can lead to misunderstandings and should be clearly defined.

Staff Response to Comment Santa Cruz Co. FCD - 4

Temporary impacts are defined as "impacts that temporarily cause a physical loss or ecological degradation of an aquatic resource." The impact must be restored to pre-project condition through natural ecological processes or active restoration in order to be classified as temporary. If the impact is not restored to pre-project condition, it is classified as permanent" (Procedures Staff Report). This definition has been added to the Order.

For the projects that are eligible to enroll under this Order, sediment removal that does not impact vegetation and follows applicable stabilization requirements included in the Order would be categorized as a temporary impact. It is expected that when conducted in accordance with the conditions of the Order, natural geomorphological and sediment transport processes would not be impacted.

However, vegetation removal where vegetation impacts are not restored through natural ecological processes or active restoration does result in degradation of ecological function of waters of the state and riparian areas. This is why the Order requires vegetation management activities over selected thresholds to be notifying, and if those activities are repeated, management activities are subject to additional requirements in a higher tier.

Santa Cruz Co. FCD - 5

III.A: The listed purposes of the Draft Order do not clearly state a purpose related to reducing flood risk.

Staff Response to Comment Santa Cruz Co. FCD - 5

Flood risk reduction is an example of the purpose of an individual project that may be eligible for enrollment under the Order. This Order itself does not have a stated purpose to reduce flood risk. Finding 6 describes potential discharges from flood risk reduction activities that are regulated by this Order. Finding 8 applies to both fire and flood risk reduction activities and describes how this Order provides a more efficient regulatory mechanism than individual waste discharge requirements for projects that do not already have a permitting mechanism.

Santa Cruz Co. FCD - 6

III.A.5: The order, as written, will not support an increased pace and scale of fire and flood response treatment. The complexity and overly involved teasing apart of categories, and the exclusion for CCWB to arbitrarily determine eligibility, will create delays. The various requirements for additional plan submittals, mitigation, reporting, etc, make this order essentially the same as a standard permit process and ends up doing little to streamline or facilitate fire/flood response projects.

Staff Response to Comment Santa Cruz Co. FCD - 6

The current permitting path available to most activities regulated by this Order is individual waste discharge requirements. The timeframe for issuance of individual waste discharge requirements is much lengthier than the process of enrollment under the Order. However, if dischargers find the Order inconvenient, they are free to pursue individual waste discharge requirements.

Santa Cruz Co. FCD - 7

III.C.4: We look forward to an opportunity to review the Draft Environmental Impact Report.

Staff Response to Comment Santa Cruz Co. FCD - 7

Comment noted.

Santa Cruz Co. FCD - 8

III.E.2: This Draft Order provides exemption from notification requirements for Type A activities; however, a Report of Waste Discharge would be required under Section 13260(a) of the CWC. We recommend that the Draft Order specifically exempt the ROWD requirement for non-notification activities.

Staff Response to Comment Santa Cruz Co. FCD - 8

The Order is not a waiver of waste discharge requirements. General Finding III.E.3 has been added to the Order clarifying that filing of a notice of intent is not required for some projects and referencing California Water Code section 13263(d), which states that "The regional board may prescribe requirements although no discharge report has been filed." Projects meeting the criteria for Category A will be enrolled without submittal of a notice of intent.

Santa Cruz Co. FCD - 9

IV.C: "Project activities shall not cause loss of canopy that contributes to an increase in temperature that adversely affects beneficial uses of waters of the state." Please clarify in the Draft Order how this will be confirmed when proposing to conduct or conducting vegetation management activities.

Staff Response to Comment Santa Cruz Co. FCD - 9

If dischargers follow the conditions of the Order, enrolled projects are not expected to result in adverse effects to beneficial uses of waters of the state. If a discharger identifies the potential for vegetation removal activities to cause increases in natural receiving water temperature, such as removal of canopy that significantly decreases shading, the discharger should revise the project to decrease its impact, incorporate any necessary monitoring and best management practices to ensure the requirement is not exceeded, or seek a different permitting path. The water quality objective for temperature in surface waters with the cold and warm freshwater habitat beneficial uses is: "At no time or place shall the temperature of any water be increased by more than 5°F above natural receiving water temperature."

Santa Cruz Co. FCD - 10

IV.F: Provide a definition for "surface water" in the Draft Order.

Staff Response to Comment Santa Cruz Co. FCD - 10

Surface waters of the state have been defined in the Glossary (Attachment C) to include rivers, creeks (perennial, intermittent, and ephemeral), lakes, wetlands, bays, and estuaries. For the purposes of this Order, the lateral extent of creeks extends to top of bank. For the purposes of this Order, ephemeral creeks are those drainages that exhibit bed and bank.

Santa Cruz Co. FCD - 11

V.C.4: Use of the language "areas that may run off to waters of the state or riparian areas" could broadly encompass any land surface throughout the state, potentially expanding Clean Water Act (CWA) jurisdiction beyond legally justified boundaries.

Staff Response to Comment Santa Cruz Co. FCD - 11

Central Coast Water Board staff has removed the phrase "or areas that may run off to waters of the state or riparian areas" from Order section V.C.4.

As a point of clarification, these general waste discharge requirements are being issued under the authority of the California Water Code for waste discharges to waters of the state, not the federal Clean Water Act. Projects involving activities in waters of the United States that require a federal permit are required to obtain a Clean Water Act section 401 water quality certification from the Central Coast Water Board rather than enroll in this Order (see section I.A.1.a.).

Santa Cruz Co. FCD - 12

V.C.5: Clarification is needed to eliminate required revegetation activities in areas that are not vegetated (e.g. in-stream sediment removal such as downgrading of sand or gravel bars). We request the following additional language, underlined: "After project activities, temporarily disturbed areas that were vegetated prior to project activities shall be revegetated to meet success criteria..."

Staff Response to Comment Santa Cruz Co. FCD - 12

Order section V.C.5 has been removed. Instead, requirements in Order Section V.C have been revised to clarify requirements for stabilization of disturbed areas to prevent and control erosion.

Santa Cruz Co. FCD - 13

V.D.1: Emergency activities, such as hand-removal of vegetation, otherwise conducted in compliance with this Draft Order, should be allowed to proceed during rain events when necessary to alleviate the emergency.

Staff Response to Comment Santa Cruz Co. FCD - 13

Central Coast Water Board staff has revised the work window for vegetation management activities. Work restrictions are now based on either 30 percent or 50 percent chance of 0.2 inches of rain in 24 hours, depending on the activities being conducted in waters of the state or riparian areas. Emergency projects may be conducted outside of the work windows in V.D.1 and V.D.2 when deemed necessary.

Santa Cruz Co. FCD - 14

V.D.3: Please clarify in the Draft Order whether work window extension requests are required for non-notification activities.

Staff Response to Comment Santa Cruz Co. FCD - 14

The requirement to submit a work window extension request has been revised to apply only to Category B projects and moved to section V.D.1. If a discharger expects to conduct non-emergency project activities outside of the revised work windows, they should apply as a Category B project and submit a work window extension request.

Santa Cruz Co. FCD - 15

V.F.1: We request that staging and maintenance be allowed within waters of the state, considering that "waters of the state" has been interpreted by CCWD staff to include areas that are typically dry and do not contain riparian vegetation, such as levee slopes and setback areas. We recommend the language be modified to allow staging areas at least 50 feet from flowing or standing water and outside of the dripline of riparian vegetation.

Staff Response to Comment Santa Cruz Co. FCD - 15

The intention of this requirement is to minimize ground disturbance and potential for discharge of pollutants in sensitive areas. The language in section V.F.1 has been modified to specify that equipment and vehicle staging and maintenance can be within 100 feet of waters of the state and riparian areas if it is limited to existing roads, parking areas, and other pre-disturbed sites.

Santa Cruz Co. FCD - 16

V.G.1.a: Include provisions for relocation of sediment within waters of the state, such as channel recontouring or reestablishment of a low-flow channel.

Staff Response to Comment Santa Cruz Co. FCD - 16

Condition V.G.1.a. refers to handling of sediment that is removed from surface waters of the state and riparian areas. Sediment removal or management activities may include channel excavation that recontours the channel. Section VII.D describes the conditions that must be followed for sediment management, including conditions for allowed modifications to channel geometry.

Santa Cruz Co. FCD - 17

VI.A.1: We recommend that projects are allowed to be repeated annually for Category B low-tier activities. Allowing repetition of small projects that otherwise meet the requirements will prevent

small problems from becoming big problems that would require bulky analyses, review, and permitting (costly and time consuming for both discharger and CCWB staff).

Staff Response to Comment Santa Cruz Co. FCD - 17

Section VI.A.1 has been modified to allow sediment removal or management to be repeated in areas lacking vegetation or with only invasive vegetation.

If a project that would otherwise be a low tier project is conducted more frequently than once every five years, it would need to enroll as a medium tier project. The additional conditions that the project would then be subject to are the requirement to submit annual reports and potentially the requirement to implement a compensatory mitigation plan. For minor activities, the level of detail in the annual reports is expected to be commensurate with the complexity of the project and therefore is not an onerous requirement. Repeated maintenance in the same area causes extended ecological degradation, and therefore compensatory mitigation is necessary for such activities.

Santa Cruz Co. FCD - 18

VII.D.1: Herbicide application should not be restricted to invasive species management. Herbicide application is often used as an alternative to mowing as a method to control bank and bench grass growth that can contribute to flood risk.

Staff Response to Comment Santa Cruz Co. FCD - 18

The restriction on herbicide use only for invasive species management has been removed from section VII.D.1. The section has been revised to specify that herbicides used within waters of the state and riparian areas must be approved and currently registered for aquatic use in California. Other activity-specific conditions in VII.D identify assessments to be conducted to determine that herbicide use is appropriate. Category B project tiering incorporates size thresholds based on the proposed area of herbicide application.

Santa Cruz Co. FCD - 19

VII.D.1: Provide a definition for “surface water” in the Draft Order.

Staff Response to Comment Santa Cruz Co. FCD - 19

A discussion of what the term “surface waters” can include and the extent of those surface waters subject to the requirements of this Order has been added under the term “waters of the state” in Attachment C – Glossary of the Order.

Santa Cruz Co. FCD - 20

VII.E.4: Clarification is needed to eliminate required revegetation activities in areas that are not vegetated (e.g. in-stream sediment removal such as downgrading of sand or gravel bars). We request the following additional language, underlined: “After project activities, temporarily disturbed areas that were vegetated prior to project activities shall be revegetated to meet success criteria.”

Staff Response to Comment Santa Cruz Co. FCD - 20

Section VII.E.4 has been removed from conditions that apply to all projects. All projects, including non-notifying projects, must comply with sediment and erosion control best management practices required in section V.C. for areas of disturbed soil. Category B projects must follow the temporary impacts restoration requirements included in section IX.A. Revegetation requirements for temporary impact restoration have been limited to projects that

remove both sediment and native vegetation from a location. Methods to achieve site stabilization include revegetation with native grass, herbaceous species, or other appropriate species.

Santa Cruz Co. FCD - 21

VIII.A.1, VIII.D.1, VIII.D.2, VIII.E, and IX: Regarding the requirements for sediment removal and vegetation removal plans, sampling and analysis plan of upstream conditions, dewatering/diversion plans, mitigation plans: these are basically the same requirements as getting a standard WQC or WDR and essentially undermine the effort to streamline urgent projects.

Staff Response to Comment Santa Cruz Co. FCD - 21

The intent of this Order is to provide an additional tool to help dischargers meet notification requirements for the covered activities that is a more efficient alternative to obtaining individual waste discharge requirements. The Order establishes a standardized process of enrollment rather than individual permit approval at a Board meeting, thereby supporting flood risk reduction activities that are not eligible for Clean Water Act section 401 water quality certifications or existing general orders while still maintaining the necessary protection of water quality and beneficial uses. By providing the specific tiered requirements, including different requirements for the level of detail of submitted plans, the Order is designed to address a wide range of activities in a consistent manner, thus reducing the need for individual waste discharge requirements.

Santa Cruz Co. FCD - 22

IX.B: Requiring tree and canopy replacement is contrary to vegetation management activities. If trees need to be removed for flood control purposes, planting replacement trees will negate the benefit of the vegetation management activities. Additionally, managing agencies typically do not own lands that can be used for mitigation projects or have available funding to acquire lands or pay for mitigation projects on lands owned by others. This requirement will jeopardize flood prevention/control activities.

Staff Response to Comment Santa Cruz Co. FCD - 22

Refer to IX.B.5: "Tree replacement shall be conducted at the compensatory mitigation site to the maximum extent practicable. If the tree replacement ratio is such that installing all required replacement trees at the compensatory mitigation site will be detrimental, trees may be installed elsewhere in surface waters of the state or riparian areas of the same surface water hydrologic planning area with no increase in replacement requirement. If tree replacement is not feasible within surface waters of the state or riparian areas of the same surface water hydrologic planning area, planting may occur within buffer areas." Order Section X.G.12 has been revised to require compensatory mitigation sites to be protected from the time compensatory mitigation is installed until review and approval of the Project Completion Report. It is important to ensure dischargers' ability to access, maintain, and monitor the mitigation site so that all success criteria in the mitigation plan are met. Compensatory mitigation is necessary to ensure that project activities are protective of beneficial uses and conducted in accordance with antidegradation policy.

Santa Cruz Co. FCD - 23

IX.B.11.f: Please clarify what activities that would be covered under this Draft Order would constitute a permanent wetland impact.

Staff Response to Comment Santa Cruz Co. FCD - 23

Permanent wetland impacts refer to permanent loss or degradation from project activities where the impact site is not restored to pre-project habitat function and value - for example, grading conducted in an area that meets wetland criteria such that it is no longer a wetland after the project, either from vegetation removal, change in hydrologic conditions, or elimination of hydric soils.

Santa Cruz Co. FCD - 24

X.A.1.k and X.D.2: Category B high tier activities will require modeling to identify quantifiable performance standards and watershed assessment to consider alternatives. This will create a substantial financial burden for flood control agencies, hindering or preventing implementation of flood control activities necessary to improve agencies' resiliency in dealing with and adapting to climate change.

Staff Response to Comment Santa Cruz Co. FCD - 24

As outlined in the State Water Resources Control Board's *Procedures for Discharges of Dredged or Fill Material to Waters of the State*, avoidance and minimization of adverse impacts to beneficial uses of surface waters of the state is standard practice for the Central Coast Water Board. It is also necessary to comply with state antidegradation policy. Use of modeling to identify the amount vegetation management necessary to achieve flood risk reduction goals is an important tool for ensuring adverse impacts to beneficial uses are avoided and minimized. This approach is routine for issuance of Clean Water Act section 401 water quality certifications for flood risk reduction projects and was also used by the Central Coast Water Board when issuing waste discharge requirements to the City of Paso Robles for fire risk reduction activities in the Salinas River.

The requirements for modeling only apply to high tier Category B projects and therefore will be limited in their application. Since the modeling requirements apply to the largest projects authorized by the Order, the potential burden of modeling requirements is proportional to project impact. HEC-RAS is a reliable modeling software that is free to download. Data collection is expected to be part of the design process for flood projects and any additional data needed for flood modeling can be accomplished as part of the same project preparations without undue burden.

Regarding sediment management, the requirement for modeling has been edited to provide the option for applicants to provide an analysis demonstrating the proposed sediment removal does not exceed conditions necessary to maintain design or natural flow conveyance capacity, in order to be consistent with eligibility requirements of the Order. Regarding modeling for assessment of fluvial geomorphological impacts, the Order has been edited to allow for analysis of potential impacts, as an option to modeling.

Santa Cruz Co. FCD - 25

XII.A.3: Requiring notification 14 days before emergency work is not standard practice and should be reconsidered. In a declared emergency, when conditions present a threat to life and property, applicants should not be prevented from conducting management activities due to

advance noticing requirements. We recommend a revision to reflect that notification should be made 'as soon as practicable' when an emergency condition exists or local emergency or disaster has been declared.

Staff Response to Comment Santa Cruz Co. FCD - 25

Condition XII.A.3 has been modified to include the following to align with emergency notification requirements in other Water Board emergency orders: "Category B projects that meet the definition of an emergency as defined in Order section II.A.4.a through II.A.4.c shall notify the Central Coast Water Board as early as possible, and no less than 48 hours before initiating the emergency project. Notification may be via telephone, email, written notice, or other verifiable means. If not included as part of the initial notification, the Discharger must submit a complete NOI within three (3) business days of the notification."

Santa Cruz Co. FCD - 26

XII.D.1: Authorization under the Draft Order should not rely on issuance of LSAA since CDFW may not respond to LSAA Notifications. We recommend that proof of Notification be provided, instead of LSAA, prior to project commencement.

Staff Response to Comment Santa Cruz Co. FCD - 26

Section XII.D.1 has been revised to require evidence of submittal of a Lake and Streambed Alteration Agreement notification or other notification to CDFW, whichever is appropriate for the activity.

Santa Cruz Co. FCD - 27

Appendix B: Trimming vegetation, pruning, removing undergrowth, should not require compensatory mitigation. It regrows naturally faster than any revegetation site can produce. Mitigation should be reserved for instances of whole mature tree removal or larger areas of impact to intact riparian vegetation, not for every maintenance activity that occurs. Additionally, managing agencies often do not have budget to continuously take on mitigation projects as they struggle to manage flood risk through annual maintenance activities.

Staff Response to Comment Santa Cruz Co. FCD - 27

Only the management practices identified in section IX.B.1 require compensatory mitigation. These do not include activities such as trimming or pruning that are temporary and would allow regrowth without active restoration each growing season. Compensatory mitigation implementation is only required once every five years for impacts that may be repeated annually. The Central Coast Water Board is tasked with ensuring that discharges to waters of the state and riparian areas do not result in net loss of habitat value and function, which would be the case if significant temporal or permanent impacts were left unmitigated.

Santa Cruz Co. FCD - 28

Appendix C: There are several terms and phrases used throughout the Draft Order that are undefined or described without reference to the California Water Code. Definitions for the following terms and phrases, with references to the California Water Code, should be included in the Draft Order:

- *Flood Risk Reduction*
- *Native Tree Canopy*
- *Pre-existing Condition(s)*
- *Prescribed Herbivory*

- *Probable Future Projects*
- *Riparian Areas*
- *Sediment Removal*
- *Surface Water*
- *Vegetation Removal*
- *Waters of the State*

Staff Response to Comment Santa Cruz Co. FCD - 28

Further detail has been added to the definition of riparian area, waters of the state, and surface waters in Attachment C – Glossary. Flood risk reduction, native tree canopy, pre-existing conditions, prescribed herbivory, sediment removal, and vegetation removal are all terms of art within the ecology, aquatic resource management, and related fields with commonly accepted definitions and do not require reference to the California Water Code. The use of probable future projects in section IV.E in relation to cumulative impacts has been modified to refer to “reasonably foreseeable probable future projects” and the terms should be interpreted as they are used within the context of CEQA.

Santa Barbara Co. FCD - 1

I.A.1 Covered activities should include debris removal, trash, foreign objects, etc., not just vegetation and sediment.

Staff Response to Comment Santa Barbara Co. FCD - 1

Vegetation management may include dead vegetation removal and management, including downed woody debris. Trash and other foreign object removal may be included as part of broader flood and fire risk reduction activities under this Order, or as part of mitigation, but are not the main activity types that prompt eligibility for enrollment. Removal of trash and foreign objects from surface waters of the state or riparian areas does not require permitting from the Central Coast Water Board, provided it does not result in the potential for waste discharges, such as the substantial disturbance of sediment.

Santa Barbara Co. FCD - 2

I.B.1. The exception for 100-acres should be defined as 100 contiguous acres. A flood control or fire operation may involve dispersed areas of work that cumulatively reach 100 acres across an entire county or region, and should not be excluded if a cumulative total of multiple smaller sites across multiple watersheds reaches 100 acres annually. The Exec Order B-52-18 and Wildlife and Forest Resilience Action Plan goals to increase treatments from 250,000 to 500,000 acres per year. The very small limits in this Gen Order will not achieve these goals. Several items in the Gen order are restricted to 25-ft increments or tenths of an acre.

Staff Response to Comment Santa Barbara Co. FCD - 2

The limit of 100 cumulative acres only applies to work in surface waters of the state and riparian areas. Work areas outside of surface waters of the state or riparian areas do not count towards the total project area for this enrollment criteria. Clean Water Act section 401 water quality certifications do not have this size limitation and may still be used as a permitting mechanism for larger scale projects. Individual waste discharge requirements are also an option.

The other size restrictions referenced in the comment are thresholds applicable to enrollment tiers, not overall eligibility for enrollment in the Order.

In addition, the Order has been revised to only apply to local responsibility areas, which is a small portion of the area included in the goals of the Wildfire and Forest Resilience Action Plan.

Santa Barbara Co. FCD - 3

I.B.1: Flow conveyance capacity. Natural creeks, channels, etc are not “designed” and do not have a flow capacity. Sediment removal in order to increase flow conveyance may be necessary at problematic areas that have accumulated sediment; or after a fire for a temporary period, the need for increased capacity for post-fire flows can be a matter of life or death. The limitation to be restricted to design capacity or previously observed conditions does not allow appropriate response for damaging conditions after a fire, or at problematic sites that have demonstrated a lack of adequate capacity.

Staff Response to Comment Santa Barbara Co. FCD - 3

If the discharger wishes to conduct activities to increase flow capacity beyond the thresholds described in the Order, the discharger may apply for a Clean Water Act section 401 water quality certification, individual waste discharge requirements, or another permit. The Order is intended to cover limited flood control work in waters of the state; it is not intended to authorize redesign of natural waterbodies. Other permitting mechanisms are available for such projects.

Santa Barbara Co. FCD - 4

I.B.1,2,3 The categories ignore another type of channel, which is a human-made or human-modified channel, partially natural but partially modified, such as roadside ditches, ag ditches, canals, or other drainage features that are not natural creeks but are also not designed facilities with an engineered flow conveyance capacity.

The order mentions climate resilience and adapting to climate changes in several places, but the restrictions in B,1,2,3 to only perform maintenance to previously designed capacity or previously documented conditions, ignore the reality of changing fire and precipitation patterns and denies practitioners an opportunity to practice climate adaptation to improve resiliency and public safety.

Staff Response to Comment Santa Barbara Co. FCD - 4

Flow conveyance capacity of channels may be estimated by onsite observations and further supported with reliable regional data. Managing agency records of channel dimensions, capacity, and historic operations are all examples of supporting information to demonstrate “previously documented creek capacity” per section I.B.3. The required compliant Sediment Removal or Management Plan (X.C) and complete notice of intent are intended to provide additional context for the scope of proposed activities and enable Central Coast Water Board staff to determine if the project meets the conditions in the Order. If the discharger wishes to conduct activities to increase flow capacity beyond the thresholds described in the Order, the discharger may apply for a Clean Water Act section 401 water quality certification, individual waste discharge requirements, or another permit. The Order is intended to cover limited flood control work in waters of the state; it is not intended to authorize structural redesign of waters of the state. Other permitting mechanisms are available for such projects.

Santa Barbara Co. FCD - 5

I.C. What's the point of this general order if the Water Board can arbitrarily choose not to use it? A project should either be eligible or not. The discretion to use or not use the eligibility will only add another hurdle and another administrative process to an already constrained review.

Staff Response to Comment Santa Barbara Co. FCD - 5

The Central Coast Water Board intends to enroll projects that are eligible in the Order. However, there may be very limited circumstances where such enrollment is not appropriate. For example, if a discharger has previously been enrolled in the Order, but did not comply with the Order, then additional enrollments could result in further non-compliance and impacts to water quality and beneficial uses. In such cases, the Central Coast Water Board reserves the right to not enroll projects in the Order. Central Coast Water Board staff expects such cases to be very rare. Central Coast Water Board staff will base these decisions on potential violations of Order prohibitions and other conditions, as well as threats to water quality and beneficial uses. The decisions will not be arbitrary. To better reflect this approach, the statement "Although an activity may be eligible for coverage under this Order, the Central Coast Water Board may elect to regulate the activity under individual waste discharge requirements or other general waste discharge requirements," has been removed from the Order. Removal of this statement from the Order does not prevent the Central Coast Water Board from requiring individual waste discharge requirements in very limited cases.

Santa Barbara Co. FCD - 6

V.C.4. It is regulatory overreach to include "areas that may run off to waters of the state or riparian areas". Any land surface in the entire state could be interpreted as ground area that may run off to waters of the state or riparian areas. Such land is not considered a Water of the State or Water of the US, and this condition attempts to expand the range of CWA jurisdiction beyond that which is legally justified, and would include, essentially, any and all property. This is a significant deviation from the legislative authority in CWA and is unenforceable.

Staff Response to Comment Santa Barbara Co. FCD - 6

The Order only regulates projects in surface waters of the state and riparian areas. To provide clarity, the term "areas that may run off to waters" has been removed from section V.C.4.

As a point of clarification, these general waste discharge requirements are being issued under the authority of the California Water Code for waste discharges to waters of the state, not the federal Clean Water Act. However, both the California Water Code and Clean Water Act regulate activities that have the potential to discharge waste to waters, not just activities within waters.

Santa Barbara Co. FCD - 7

II.A.6, 7; Emergency work limits are at 0.2 acres, One-time activities are 0.1 acres, this is one such example of arbitrary separations into micro-categories, that are not meaningful and only serve to complicate the Order for applicants and Water Board reviewers.

Staff Response to Comment Santa Barbara Co. FCD - 7

Project size and categories have been selected to reduce the permit burdens for less impactful activities as much as possible while ensuring protection of water quality and beneficial uses. Having one threshold for minor projects and another for emergency projects is not complicated, especially considering the differing nature of the types of projects. The 0.1 acre category is included in the Order to provide a mechanism for minor fire and flood risk vegetation and sediment activities to proceed as non-notifying projects. The 0.1 acre threshold commonly used

to identify minor projects, such as in California Code of Regulations title 23, division 3, chapter 9, article 1, section 2200(a)(4), which identifies projects smaller than 0.1 acre as “low impact.”

The 0.2 acre limit for emergency projects was used to provide additional opportunity for emergency projects to be non-notifying. Including this higher threshold in the Order is an appropriate means to facilitate permitting of emergency projects that otherwise do not have a clear permitting pathway. It is also worth noting that most emergency activities will still be subject to other statewide general orders, including the *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material to Waters of the State from Emergency Repair and Protection Activities* (Water Quality Order No. 2023-0058-DWQ). This Order extends coverage for other types of activities that do not clearly fall within the scope of other existing general orders, in an effort to clarify a permitting path for the additional activities to move forward.

Santa Barbara Co. FCD - 8

I.D.2: The order does not authorize take of a species which may become “prohibited in the future?” How are applicants or RWQCB to determine for what species take may “become prohibited in the future”? This is an odd condition. Candidate species are already identified in the condition. The “prohibited in the future” clause is weird and cannot be complied with.

Staff Response to Comment Santa Barbara Co. FCD - 8

Since the language in question does not include the word “may,” it does not necessitate speculation regarding future endangered species listings and should not be read as such. This finding only refers to species that have been actively identified as threatened, endangered, or candidate under the California or Federal Endangered Species Acts, either before or after the adoption of the Order. The finding simply conveys that coverage under the Order does not constitute authorization to take protected species, whether they are currently listed or after they have been listed in the future. Dischargers must comply with the California and federal endangered species acts regardless of coverage under this Order. This language is included to clarify the scope of the Order – that it does not authorize actions contrary to the Endangered Species Acts. The language is also standard in State Water Resources Control Board issued general 401s, including those that the Santa Barbara County Flood Control District has enrolled in many times.

Santa Barbara Co. FCD - 9

II.6.C. Cat A non-notifying emergency actions to be the “minimum necessary to alleviate immediate emergency”

The whole point of this order is to prevent small problems from becoming larger issues and to streamline permitting response for important fire and flood operations and to allow for adaptation to changing fire and precipitation regimes. The limitation to perform the “minimum necessary to alleviate the immediate emergency” defeats the purpose and likely leads to another, second round of work that disturbs the waterway. We should be able to do a proper job to alleviate the emergency and remedy the problem as necessary, not limited to immediate need of that immediate moment. Flood hazards rarely happen only once in a season, there are repeat storm events. This condition eliminated the ability to be proactive.

Staff Response to Comment Santa Barbara Co. FCD - 9

In the Central Coast region, construction during rain events, saturated soil conditions, or when water is flowing increases the risk of construction pollutants entering water bodies in detrimental

quantities. Further, non-engineered solutions are more likely to need to be repaired in the future compared to properly designed projects. This Order allows actions necessary to mitigate loss of life, health, property, or essential public services to proceed as non-notifying activities. Other projects that exceed the minimum necessary to address an emergency can also proceed under the Order, but with an appropriate level of reporting and review. This process is much more efficient than current options, such as individual waste discharge requirements. It is also worth noting that existing emergency orders will likely cover most emergency actions.

Santa Barbara Co. FCD - 10

II.7.B. Need to define temporary. Sediment removal is permanent, we don't put the sediment back in after the emergency response. Hazardous vegetation or obstructions are removed but not temporarily, they are not put back in. If "temporary impact" is intended to mean not converting to hardscape or concrete, then state as such. Temporary vs permanent impact gets misconstrued.

Staff Response to Comment Santa Barbara Co. FCD - 10

Temporary impacts are defined in Attachment C. For the projects that are eligible to enroll under this Order, sediment or debris removal that does not impact live vegetation and follows applicable stabilization requirements included in the Order will be categorized as a temporary impact. Central Coast Water Board staff expects that natural geomorphological and sediment transport processes will restore areas that are temporarily impacted in accordance with the requirements of the Order.

Santa Barbara Co. FCD - 11

III. A. 2. Excess sediment after wildfire has also killed people, destroyed neighborhoods, and damaged public property, infrastructure, and natural resources. The presumption in this order is that any treatment of sediment, vegetation, or debris removal is solely an adverse impact on WOS and/or beneficial uses. The treatment itself, removal of debris/veg/sediment can be a beneficial effect on WOS and beneficial uses by remedying or preventing damages to natural resources.

Staff Response to Comment Santa Barbara Co. FCD - 11

Central Coast Water Board staff disagrees that the Order includes the presumption that all fire and flood risk reduction activities are harmful to beneficial uses. Many fire and flood risk reduction activities are authorized to proceed under the Order as non-notifying in acknowledgement of the benefits they may potentially provide to surface waters of the state and riparian areas.

Santa Barbara Co. FCD - 12

III.A.5. The order, as written, will not support an increased pace and scale of fire and flood response treatment. The complexity, overly-involved teasing apart of categories, and the exclusion for Water Board to arbitrarily determine eligibility, will actually create delays. The various requirements for additional plan submittals, mitigation, reporting, etc, make this order essentially the same as a standard permit process and ends up doing little to streamline or facilitate fire/flood response projects.

Staff Response to Comment Santa Barbara Co. FCD - 12

The current alternative to enrollment under the Order is issuance of individual waste discharge requirements, which can take a year or more, due to procedural requirements. As such, enrollment in the Order is much more efficient than existing options. Furthermore, the Order provides the opportunity for many activities to be non-notifying or low tier, with little or no planning and reporting requirements. Only larger projects necessitate substantial planning and reporting, as is appropriate for more impactful projects. Applicants are free to pursue individual waste discharge requirements if they find the Order is a hindrance to their activities.

Santa Barbara Co. FCD - 13

III.A.8. The text recognizes that individual WDRs or other permit pathways can be inefficient and delay important projects. The level of detail, complexity, multiple arbitrary categories, and restrictive limitations on sizes and practices in this Gen Order will not result in a streamlined or improved process.

Staff Response to Comment Santa Barbara Co. FCD - 13

The current alternative to enrollment under the Order is issuance of individual waste discharge requirements, which can take a year or more, due to procedural requirements. As such, enrollment in the Order is much more efficient than existing options. Furthermore, the Order provides the opportunity for many activities to be non-notifying or low tier, with little or no planning and reporting requirements. Only larger projects necessitate substantial planning and reporting, as is appropriate for more impactful projects. Applicants are free to pursue individual waste discharge requirements if they find the Order is a hindrance to their activities.

Santa Barbara Co. FCD - 14

IV Prohibitions

F. There are herbicides that are designed for aquatic application that are legal and fully allowed under state law to be applied within 25ft of a waterway. This additional prohibition conflicts with other state laws. If legal products are applied according to label and state law, no such additional prohibition in this order warranted.

Staff Response to Comment Santa Barbara Co. FCD – 14

The prohibition on herbicide use within 25 feet of surface water has been eliminated. The Order now includes activity-specific conditions that herbicide formulations used within waters of the state and riparian areas must be approved and currently registered for aquatic use in the State of California.

Santa Barbara Co. FCD - 15

*V.D.1. Project Timing: Flood control response should not be burdened by these schedules. The whole point of the order is to streamline urgently needed fire and flood response activities. Response often occurs before, during, and after rainfall, during the rainy season, or in periods of back to back rain events over several days or weeks. Fire season is now year-round, including the winter months. The seasonal limitations are arbitrary and unnecessary. Limiting the ability of flood control response to *not* occur when rain is forecast is contrary to good management. It is precisely when rain is forecast, and when storm-related damages have already occurred that this order is most necessary.*

Staff Response to Comment Santa Barbara Co. FCD - 15

The Order provides a permitting pathway for fire and flood response activities while also protecting water quality and beneficial uses. Sediment management and removal and other heavy construction-type flood control activities conducted during rain events increase the risk of mobilizing excessive sediment and other pollutants. Seasonal limitations are necessary in the Order to prevent flood control agencies from planning to conduct needed maintenance during the wet season, when water quality risks are higher.

The Order has also been modified to allow projects that meet the definition of an emergency to proceed during rain events when deemed necessary. A work window extension request may also be submitted for other Category B projects. The shortened review period (21 days for low tier projects, 45 days for medium tier projects, and 60 days for high tier projects) compared to individual waste discharge requirements is also expected to expedite necessary projects. Section V.D.1 has also been modified to allow for more flexible timing for vegetation management conducted without soil disturbing activities.

Most emergency activities will still be subject to other statewide general orders, including the *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material to Waters of the State from Emergency Repair and Protection Activities* (Water Quality Order No. 2023-0058-DWQ). This Order extends coverage for other types of activities that do not clearly fall within the scope of other existing general orders, in an effort to clarify a permitting path for the additional activities to move forward.

Santa Barbara Co. FCD - 16

V.D.2. Again, why 2 separate work windows for slightly different tasks? Why so many layers of complexity? Just make it consistent. The condition to regulate “areas where runoff can enter waters of the state” is regulatory overreach beyond the authority of CWA, in an attempt to regulate any and all land or property in the entire state from which runoff “can enter waters of the state or riparian areas”, which is essentially any piece of property anywhere.

The channels often remain dry through Oct, Nov, even Dec in southern CA. The end date is arbitrary. If the idea is to minimize work in wetted channels, that is already captured elsewhere in the conditions. The arbitrary work window dates make this order essentially unusable. Nesting bird season can run thru Sept 15, which is usually constrained by CDFW, leaving a 2-week work window before the proposed Sept 30 end date.

Staff Response to Comment Santa Barbara Co. FCD - 16

Sediment management and removal and other heavy construction-type flood control activities conducted during rain events increase the risk of mobilizing excessive sediment and other pollutants relative to vegetation management that does not involve soil disturbing activities. Seasonal limitations are necessary in the Order to prevent flood control agencies from planning to conduct needed maintenance during the wet season, when water quality risks are higher. The dates are based on timing of rain events experienced throughout the region and are consistent with other Water Boards orders and water quality certifications under Clean Water Act section 401. The section has been edited to have one work window for sediment management activities.

If a discharger wishes to work in the wet season, they may submit a work window extension request. Projects seeking work window extensions will be Category B projects and the extension requests will be subject to Central Coast Water Board staff review and approval.

As a point of clarification, these general waste discharge requirements are being issued under the authority of the California Water Code for waste discharges to waters of the state, not the federal Clean Water Act. However, both the California Water Code and Clean Water Act regulate activities that have the potential to discharge waste to waters, not just activities within waters.

Santa Barbara Co. FCD - 17

VII.F.1. Removing dewatering and diversion by Sept 30. Why? Oct and Nov are frequently dry months. The work window is already restricted in other conditions. Just have 1 work window for all project components, the diversion/dewatering doesn't need yet another separately defined work window. Diversion/dewatering, if implemented, are part of the overall project schedule.

Staff Response to Comment Santa Barbara Co. FCD - 17

The requirement has been removed from the Diversion and Dewatering section. Section V.D.2 defines the work window for sediment removal and management project activities as June 1 to September 30. This dry season work window is consistent with other Central Coast Water Board orders for fill/excavation activities. A work window extension request may be submitted for Central Coast Water Board staff review and approval for Category B activities.

Santa Barbara Co. FCD - 18

IX.B. Removing bare sediment does not justify compensatory mitigation. Trimming vegetation, pruning, removing undergrowth, should not require compensatory vegetation. It regrows naturally faster than any revegetation site could produce. Mitigation should be reserved for instances of whole mature tree removal or areas of impact to intact riparian vegetation, not for every maintenance activity that occurs to bare sediment, small sprouts, or ruderal vegetation.

Staff Response to Comment Santa Barbara Co. FCD - 18

Compensatory mitigation is only required for the activities listed in IX.B.1. The activity types do not include bare sediment removal or trimming, pruning, or low impact vegetation removal. The Order requirements are consistent with the concerns raised in the comment.

Santa Barbara Co. FCD - 19

V.G.1.a: Water Board/CWA doesn't need to regulate dates and methods of ultimate disposition of sediment or materials once removed from WOS and riparian areas, with yet again another arbitrary end date for activities that are not taking place in WOS. Once the sediment is removed from Water Board jurisdiction, no further involvement is necessary or legally founded. Anything beyond "disposal of sediment must be in accordance with other laws and regulations" is not CWA jurisdiction.

Staff Response to Comment Santa Barbara Co. FCD - 19

Section V.G.1.a only addresses a deadline for removal of stockpiled sediment from waters of the state and riparian areas. This date is a standard date used for Central Coast Water Board permits for activities in waters of the state. The other requirements that sediment be transported to a location where it cannot re-enter waters of the state and that it be disposed of in

accordance with all applicable laws and regulations are necessary for water quality and beneficial use protection

Santa Barbara Co. FCD - 20

V.G.1.e. Do we really need a condition specifying how frequently to take the trash out? It just makes these orders unnecessarily complicated and lengthy; nothing in CWA gives state or federal agencies jurisdiction over how often to take the trash out. Simplify: "Trash contained and disposed in manner to prevent discharges."

Staff Response to Comment Santa Barbara Co. FCD - 20

The California Water Code provides the Central Coast Water Board with the authority to prescribe waste discharge requirements to implement water quality control plans that include water quality objectives related to trash. The Order's requirements are reasonable given the trash conditions commonly observed at construction sites. Most people manage to take the trash out weekly without much difficulty. Regardless, the issue is minor, so the Order has been revised consistent with the comment.

Santa Barbara Co. FCD - 21

VI.A.1: Actions only permitted once during 5 year term. This is short-sighted, if a sedimentation/debris/vegetation/or fire issue arises again then practitioners would be prohibited from addressing the concern again? This is not climate-adaptive. It assumes that flow and sediment issues do not recur, which we know to be false. Combined with the earlier conditions to only maintain to the previously observed capacity and to do the minimum necessary, these make a recipe for failure and will create the need for more cumbersome processes in the future.

Staff Response to Comment Santa Barbara Co. FCD - 21

Activities that need to be repeated more frequently than once every five years are eligible for coverage under the Order but would need to enroll as medium tier projects. As practitioners become more familiar with the maintenance needs of project areas, they will be better able to submit notices of intent that accurately reflect the expected work, reducing the need for repeated new applications for one-off projects. If an applicant knows work will need to be repeated, Central Coast Water Board staff encourages the applicant to be proactive and identify the situation up front, so subsequent work can be authorized with one regulatory action.

Santa Barbara Co. FCD - 22

VI.C.2: The least impactful method for vegetation removal may be light, judicious herbicide, which is prohibited in other parts of the order.

Staff Response to Comment Santa Barbara Co. FCD - 22

The prohibition on herbicide use within 25 feet of surface water has been removed from the Order. Activity-specific conditions in section VII.D identify assessments to be conducted to determine that herbicide use is appropriate. The section also specifies that herbicide formulations used within waters of the state and riparian areas shall be approved and currently registered for aquatic use in the State of California. Category B project tiering incorporates size thresholds based on the proposed area of herbicide application.

Santa Barbara Co. FCD - 23

VII.D.1, 2. Herbicide prohibition within 25 ft of surface water, and only allowed for invasive species. It is not clear if this is simply a philosophical objection to herbicide; as the application to invasive vs other plants is arbitrary and unrelated to how herbicide may affect waters quality. Aquatic herbicide products approved by Fed and State for use in wet areas should not be prohibited in this order.

Staff Response to Comment Santa Barbara Co. FCD - 23

Section VII.D.1 has been revised to specify that herbicides used within waters of the state and riparian areas shall be approved and currently registered for aquatic use in California. Other activity-specific conditions in section VII.D identify steps for minimizing the amount of herbicide applied for both invasive species management and general vegetation management.

Santa Barbara Co. FCD - 24

VIII. RE: Sediment Plan, Vegetation Plan, Sampling and Analysis plan of upstream conditions, Dewatering diversion plans, Mitigation plans: These are basically the same requirements as getting a standard 401 permit or WQ cert, these requirements for additional "Plans," submittals and documents make this Gen Order effort to streamline urgent projects essentially moot. The requirements are so complicated and cumbersome that it defeats the purpose of having this Gen Order and is unusable for practitioners, a standard 401 application is simpler.

Staff Response to Comment Santa Barbara Co. FCD - 24

The intent of this Order is to provide an additional tool to help dischargers meet notification requirements for the covered activities that is a more efficient alternative to obtaining individual waste discharge requirements. The Order establishes a standardized process of enrollment rather than individual permit approval at a Board meeting, thereby supporting increased pace and scale of flood risk reduction activities that are not eligible for Clean Water Act section 401 water quality certifications or existing general orders while still maintaining the necessary protection of water quality and beneficial uses. By providing the specific tiered requirements, including different requirements for the level of detail of submitted plans, the Order is designed to address a wide range of activities in a consistent manner, thus reducing the need for individual permits and the associated burdens. Applicants are free to pursue individual waste discharge requirements if they find the Order is a hindrance to their activities.

Santa Barbara Co. FCD - 25

X.A.1.k.i,v RE: Modeling and a quantifiable flood risk performance standard. Practitioners can identify and determine a flood or fire risk without a computer model. Watershed modeling is data-intensive, time consuming, expensive, and cumbersome, and the results are usually only serviceable as guidelines. Setting a quantifiable flood risk performance standard is counter to previous conditions that restrict maintenance to only re-establishing previous capacity with no change (I.B.2,3).

Staff Response to Comment Santa Barbara Co. FCD - 25

Use of modeling to identify the amount of vegetation management necessary to achieve flood risk reduction goals is an important tool for ensuring adverse impacts to beneficial uses are avoided and minimized. Avoidance and minimization of adverse impacts to beneficial uses of surface waters of the state is outlined in the State Water Resources Control Board's Procedures for Discharges of Dredged or Fill Material to Waters of the State. This approach is also consistent with Central Coast Water Board requirements for similar activities, as exhibited by the individual waste discharge requirements issued to the City of Paso Robles for fire risk reduction activities in the Salinas River.

The requirements for modeling only apply to high tier Category B projects and therefore will be limited in their application. Since the modeling requirements apply to the largest projects authorized by the Order, the potential burden of modeling requirements is proportional to project impact. HEC-RAS is a reliable modeling software that is free to download. Data collection is expected to be part of the design process for flood projects and any additional data needed for flood modeling can be accomplished as part of the same project preparations without undue burden.

Regarding sediment management, the requirement for modeling has been edited to provide the option for applicants to provide an analysis demonstrating the proposed sediment removal does not exceed conditions necessary to maintain design or natural flow conveyance capacity, in order to be consistent with eligibility requirements of the Order. Regarding modeling for assessment of fluvial geomorphological impacts, the Order has been edited to allow for analysis of potential impacts, as an option to modeling.

Santa Barbara Co. FCD - 26

X.A.1.k.iv: Perform an 'Assessment of maintenance needs, improving capacity, or flood control infrastructure' – this condition is at odds with previous conditions that maintenance actions do not change capacity or previously documented conditions. This condition assumes that maintenance should continually be reduced over time, which assumes that at some point in the future, maintenance would be reduced to Zero. That is not a realistic projection and the entire assumption that maintenance should be continually reduced is specious. The reality is that human population grows, climate impacts (fire regime and storm intensity) are changing, and the need for maintenance is likely to increase, rather than decrease, in the future. As additional restrictions are introduced which restrict work schedules, work methods, work areas, and repeat work at the same site, it is obvious to presume that maintenance needs will be increased over time, not decreased.

Staff Response to Comment Santa Barbara Co. FCD - 26

Analyzing the watershed conditions contributing to flood or fire risk is good watershed management and can provide agencies with information to be proactive and more effective in addressing flood and fire risk. For example, if recurring sedimentation leading to vegetation growth and flooding is observed at a specific culverted crossing, addressing the source of the sediment or replacing the culverted crossing to increase the flood capacity could improve sedimentation conditions, thereby reducing the maintenance needed and repeated impacts at that location. This condition requires that the discharger assess these opportunities to avoid and minimize impacts, a standard practice of the Central Coast Water Board, as reflected in permits for annual routine stream maintenance programs throughout the region. The information required in the assessment also serves as an alternatives analysis to demonstrate the rationale for the maintenance proposed. This assessment addresses the conditions of the watershed contributing to the need for maintenance, which helps the Central Coast Water Board staff reviewing the project approve the project. This requirement does not presume that maintenance will be reduced to zero but does presume that ongoing maintenance locations collectively provide select opportunities to address sources of problems to ultimately reduce maintenance in particular locations. Santa Barbara County Flood Control and Water Conservation District's own

vegetation management plan includes the objective of “Reducing repeat tasks in the same reach.”

In addition, it is Central Coast Water Board staff understanding that due to lack of an existing permitting mechanism for the types of projects proposed under this Order, there is an issue with “deferred maintenance.” In this case, it is also reasonable to expect that a period of time where more intensive project activities establish the desired condition is followed by lower-intensity activities to simply maintain that condition. This is common for flood capacity projects regulated by the Central Coast Water Board as well as exemplified by the City of Paso Robles’ Salinas River fire risk reduction project.

It is worth noting that approaches other than ever-increasing maintenance, such as managed retreat, can help address conditions resulting from climate change and prevent increases in impacts to aquatic resources from ever-increasing maintenance activities.

Santa Barbara Co. FCD - 27

IX.B.8 The requirement for mitigation on private land to be protected in perpetuity will essentially remove any incentive for private property owners to allow habitat restoration on their lands. Private owners will not allow restoration on lands if it becomes encumbered by a perpetual restriction on any future activities or operations. Habitat restoration does not need to be unchanged in perpetuity in order to produce value for WOS or beneficial uses. Mitigation for temporary impacts should not require a perpetual mitigation area. Mitigation areas persisting for 5 years is enough to mitigate for temporal impacts. Waterways are, by nature, dynamic, and riparian habitats change over time. Any future changes on private land in the unforeseeable future would be subject to the regulations in place at that time. It’s not for us in 2024 to speculate on what those might be by placing perpetual property restrictions on private land.

Staff Response to Comment Santa Barbara Co. FCD – 27

The Order has been revised to require compensatory mitigation sites to be protected from the time compensatory mitigation is installed until review and approval of the Project Completion Report. It is important to ensure dischargers’ ability to access, maintain, and monitor the mitigation site so that all success criteria in the mitigation plan are met.

Santa Barbara Co. FCD - 28

XII.A.1,2,3: Why does the order need so many separate categories teased out to minor detail with different arbitrary thresholds and notification timelines and requirements for each subcategory? It’s unwieldy and un-implementable. For example, to notify 90 days before an activity, with a work window of June 1- Sept 30, means the work would have to be notified on March 1 of the year, which is still during the rainy season when maintenance issues might not exist or have not been identified by field inspectors yet.

An NOI is supposed to include the Sediment Plan, watershed modeling, flood risk quantifiable assessment, vegetation management plan, jurisdictional delineation, dewatering plan, restoration plan... all of these analyses and documents take time to prepare, and to provide by March 1, the analysis work would need to during the previous season when flood issues might not even be detected yet. These are unrealistic timelines and demands for documentation, and will not result in accomplishing the goals of the Governor’s orders.

Staff Response to Comment Santa Barbara Co. FCD - 28

Central Coast Water Board staff has reduced the timeframe to submit the initial notice of intent for a high tier project from 90 days to 60 days prior to commencement of project activities. Individual waste discharge requirements typically take at least a year for a complete report of waste discharge, public process, and approval. This Order offers a greatly reduced enrollment process. The notice of intent requirements for each project tier are commensurate with the scale of impacts to waters of the state and riparian areas.

The Order requirements for elements to be included in the notice of intent are necessary for the discharger to fully characterize the proposed discharges and demonstrate that the project will not impact water quality or beneficial uses.

Santa Barbara Co. FCD - 29

XII.A.3. Submitting 14 days before an emergency action defeats the purpose of emergency activities.

Staff Response to Comment Santa Barbara Co. FCD - 29

Condition XII.A.3 has been modified to include the following to align with emergency notification requirements in other Water Boards emergency orders: Category B projects that meet the definition of an emergency as defined in Order section II.A.5.a shall notify the Central Coast Water Board as early as possible and no less than 48 hours before initiating the emergency project. Notification may be via telephone, email, written notice, or other verifiable means. If not included as part of the initial notification, the Discharger must submit a complete notice of intent within three business days of the notification.

Santa Barbara Co. FCD - 30

XII D. 1. Most CDFW LSAAs now include a work window not to begin before Sept 15. Combined with the work windows in this Gen Order, practitioners are left with a 15-day work window, Sept 16 - Sept 30, to complete any work. It's simply unattainable.

Staff Response to Comment Santa Barbara Co. FCD - 30

The work windows in section V.D.1 and V.D.2 have been revised to add significant flexibility for vegetation management activities. Category B sediment removal and management activities may be conducted outside of June 1 - September 30 with Central Coast Water Board review and approval of a work window extension request. This is consistent with other Central Coast Water Board orders for fill/excavation activities.

Tehama Co. RCD - 1

I recommend that the Board delay decisions on this matter until larger conversations and analyses can be had, both with regard to the scientific basis of the rule as well as the impacts of the rule on future beneficial fire projects, including both prescribed fire and cultural fire. This rule and the proposed decision have come as a complete surprise to the beneficial fire community, and they should be considered and discussed by the practitioners, partners, and communities who will be most affected by them. Beneficial fire is one of the best tools we have for increasing landscape resilience and avoiding impacts from catastrophic fire, and it would be a shame to make decisions without fully understanding implications for this critical work.

Staff Response to Comment Tehama Co. RCD - 1

While Central Coast Water Board staff contacted and/or collaborated with groups such as CAL

FIRE, resource conservation districts, municipal fire departments, tribes, and prescribed burn associations during development of the Order, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, the Amah Mutsun Tribal Band, the Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

Tehama Co. RCD - 2

I am the District Manager for the Resource Conservation District of Tehama County, and throughout my career, I have heard from policy makers that organizations working in conservation, and protecting natural resources needs to increase pace and scale in the work that we do. Creating additional regulation hinders this desire of the state. It is easy for regulatory agencies to create burdensome policies for prescribe fire yet be color blind to the greater environmental impacts of out-of-control wildfires.

Staff Response to Comment Tehama Co. RCD - 2

All prescribed burn projects are non-notifying under the Order, provided minimum best management practices are followed. As such, the Order is not expected to impact the pace and scale of prescribed fire use.

UCANR – Quinn-Davidson – 1

I recommend that the Board delay decisions on this matter until larger conversations and analyses can be had, both with regard to the scientific basis of the rule as well as the impacts of the rule on future beneficial fire projects, including both prescribed fire and cultural fire. This rule and the proposed decision have come as a complete surprise to the beneficial fire community, and they should be considered and discussed by the practitioners, partners, and communities who will be most affected by them. Beneficial fire is one of the best tools we have for increasing landscape resilience and avoiding impacts from catastrophic fire, and it would be a shame to make decisions without fully understanding implications for this critical work.

Staff Response to UCANR – Quinn-Davidson - 1

While Central Coast Water Board staff contacted and/or collaborated with groups such as CAL FIRE, resource conservation districts, municipal fire departments, tribes, and prescribed burn associations during development of the Order, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff has held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, the Amah Mutsun Tribal Band, the Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

UCANR – Quinn-Davidson - 2

I am the Fire Network Director for the University of California Agriculture and Natural Resources, and I am also the Director of the Northern California Prescribed Fire Council. I also help lead the California Fire Science Consortium. Collectively, across these groups, we have a rich network of scientists and fire practitioners who would be happy to discuss these efforts and help find ways to maximize good work while also protecting water quality and ecosystem health.

Staff Response to Comment UCANR – Quinn-Davidson - 2

Comment noted.

UCANR – Deak - 1

Modify “D. Project Timing” portion of the requirements, “25 percent or more chance of at least 0.1-inch rain in 24 hours (Predicted Rain Event)” to >60% chance of 0.2 inch.

- a. *This is unfeasibly narrow. 25% is potentially fog to drizzle to nothing. 0.1 inch is also very little rain. Forest Practice rules outline 0.2 inch of rain. Studies suggest: “The minimum rainfall intensity needed to trigger post fire runoff is generally around 0.2 inches per hour (5 millimeters per hour) for a 60-minute duration” (Moody, 2012; Wilson et al., 2018). These studies are specific to wildfires, not prescribed fires, which typically result in lower severity fire effects than wildfires.*

(<https://bof.fire.ca.gov/media/0wmlbt05/california-forestry-report-7-post-firesalvage-logging.pdf>)

- b. *The certainty of prediction should be higher than 25% as that is often a constant in the late fall to early spring.*

Staff Response to Comment UCANR – Deak - 1

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction. The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

UCANR – Deak - 2

Modify “2. The work window for sediment removal...” to follow the rain event requirements in recommendation number 1.

- a. *When also considering bird nesting season as a factor, this could often limit work to August 1-Nov 30, which is a very short period in which to complete project work.*

Staff Response to Comment UCANR – Deak - 2

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction.

UCANR – Deak - 3

Exclude/Exempt grasslands from the 5-year window under “VI. Additional General Conditions for Category B Projects. 1. Category B low tier project activities...”

- a. *It is often ecologically imperative to burn more frequently (every 2-4 years) in these ecosystems. Burning of grassland results in little to no sedimentation issue, as a thatch layer is often left and roots of shrubs/ perennial grasses remain.*

Staff Response to Comment UCANR – Deak – 3

Prescribed fires are Category A projects, provided basic protective measures are followed, so the five-year window requirement does not apply to them. Additionally, it's important to note that

the Order only applies to prescribed fires within surface waters of the state and riparian areas. To accommodate repeated vegetation management, the Order no longer limits Category A projects to occurring once every five years, allowing vegetation removal activities to be conducted on an annual basis as needed.

UCANR – Deak - 4

Clarify Section “VII. Activity-Specific Conditions for All Projects. A. Vegetation Removal or Management. 1. Retain native trees and shrubs with a diameter of four inches or more at breast height to the maximum extent practicable. Trees that require removal shall be felled away from adjacent streams or waterbodies and piled outside of the riparian area, unless being retained to provide wildlife habitat.”

- a. *Is this rule only within the riparian area? Overall objectives within a burn unit often include reducing small tree density to enhance the health and resilience of larger trees, size being species/ecosystem dependent.*

Staff Response to Comment UCANR – Deak - 4

The requirement to retain native trees and shrubs with a diameter of four inches or more at breast height applies only within riparian areas. The phrase "to the maximum extent practicable" provides flexibility, allowing for adjustments based on site-specific conditions and overall project objectives. The intent is not to hinder necessary management activities but to balance them with water quality and wildlife habitat protection. The Order has been modified to clarify that the four-inch limit applies only to live, healthy native trees and shrubs. This specification ensures that the focus remains on preserving viable vegetation while allowing the removal of dead or unhealthy trees to meet management goals.

UCANR – Deak - 5

Modify Section “VII. Activity-Specific Conditions for All Projects. A. Vegetation Removal or Management. To the maximum extent practicable, retain canopy cover and limit ladder fuel trimming to a maximum of six feet from the ground” to 8-10 feet from the ground.

- a. *This allows people and equipment to work safely under the canopy.*

Staff Response to Comment UCANR – Deak - 5

Central Coast Water Board staff recognizes that appropriate heights can vary based on site-specific conditions. The Order language has been modified to allow flexibility in ladder fuel removal heights by increasing the removal height to eight feet from the ground, unless site-specific conditions and professional judgment deem a greater height necessary.

UCANR – Deak - 6

Correct errors and clarify requirements within the prescribed fire section.

- a. *“4. ...implement a mosaic burn pattern...” Although fire naturally tends to burn in a mosaic across the landscape, it’s generally not possible to exclude specific areas in any given burn unit without additional disturbance, such as containment line construction.*
- b. *“5. ...employ ignition patterns like head fires or flanking fires to promote low-intensity burns.” A head fire does not lead to low intensity burns (Birch et al., 2023). Additionally, grassland and brushlands respond positively and rapidly to burning, including those of*

high intensity, which are part of the historical fire regime. As such, they should be excluded from this.

- c. *“6. ...plan multiple, smaller burns over several seasons...” The word “smaller” should be clarified. Everything is smaller than highly impactful wildfires.*

Staff Response to Comment UCANR – Deak - 6

The referenced conditions have been removed from Order section VII.B.

UCANR – Deak - 7

Correct conflict with state law regarding “B. Prescribed Fire Plan. 1.”

- a. *Landowners have a right to burn without a burn plan in Cal Fire units that have an open burn season (B units). It is not within the Water Board's jurisdiction to circumvent this right.*

Staff Response to Comment UCANR – Deak - 7

The requirement to submit a prescribed fire plan has been removed from sections VIII.B.1 and X.B.

UCANR – Deak - 8

Modify “B. Prescribed Fire Plan. 2. c.” to exclude grassland and shrubland, which are adapted to high intensity fire.

Staff Response to Comment UCANR – Deak – 8

Section B. Prescribed Fire Plan has been removed from the Order. Additionally, this Order does not regulate activities or discharges occurring outside surface waters of the state or riparian areas, so upland areas are excluded from Order conditions related to vegetation management. This has been clarified in footnote 3 of the Order.

UCANR – Deak - 9

Modify the flowchart to be more user friendly. It is confusing and unhelpful in its current form.

Staff Response to Comment UCANR – Deak - 9

Additional clarifying introductory language has been added to the Order. In addition, to determine tiering, applicants can follow the written key in Attachment A.

UCANR – Deak - 10

Provide more information under “c. For Class III watercourses: iv. Implementation of erosion control measures at any control line that crosses a Class III watercourse.”

Staff Response to Comment UCANR – Deak - 10

Examples of erosion control measures for control lines crossing Class III watercourses include mulching (such as from mastication), mowing instead of blading, seeding with native grasses, redirecting runoff from top of slopes, and installing measures to slow runoff, such as water bars, gravel bags, or fiber rolls.

State Parks - 1

State Parks District is requesting a longer review period to fully comment on the entirety of the Order in detail.

Staff Response to Comment State Parks - 1

We are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received and will be recirculated for additional public comment. Central Coast Water Board staff held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, the Amah Mutsun Tribal Band, the Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

State Parks - 2

State Parks District requests the CCRWQCB also exempt State Parks activities under 1.A.2. due to the rigorous process State Parks already conducts as a State land management agency, land steward, and CEQA lead:

- a. Several sections exempt CalFire activities from this Order; however, it does not offer Parks this same exemption despite similar processes that already consider water quality protections when designing project work.*
- b. Per CEQA Guidelines and the Parks Department Operations Manual (the Department's approved guidance policy for park operations), State Parks acts as the CEQA lead for projects conducted on Parks land. By policy, State Parks projects are designed to minimize impacts to all resources, including water quality, to the greatest extent possible.*
- c. The provisions of the Z'berg-Nejedly Forest Practice Act (PRC Section 4511 et. Seq), exempts land managed by State Parks provided operations have undergone CEQA evaluation pursuant to PRC Div 13 commencing with Sec 2100. Thus, the Forest Practice Act already acknowledges State Park's autonomy, and ability, to manage the public resources within our authority and mission.*

Staff Response to Comment State Parks – 2

The Order's scope has been reduced to cover only local responsibility areas, significantly reducing the number of State Parks projects that will require enrollment. The Order is designed to regulate activities based on impact to waters of the state and riparian areas, not by the agency conducting them; reference to CAL FIRE's Chaparral Management Program was removed to avoid implying agency-specific notification criteria. Additionally, the Order has been updated in section II.A.3 to categorize CEQA-exempt fire risk reduction activities overseen by any CEQA lead agency, not just CAL FIRE, as non-notifying. Prescribed fire projects conducted by any agency, when implemented with basic protective measures, are also non-notifying. The Z'berg-Nejedly Forest Practice Act primarily applies to timber harvest operations, while the Order addresses vegetation removal specifically for fire risk reduction.

State Parks - 3

State Parks District encourages the CCRWQCB to define "riparian areas" more clearly. Suggest following the Forest Practice Rules for equipment limitation zones.

Staff Response to Comment State Parks - 3

The riparian area definition in Attachment C – Glossary has been modified to include clarifying information. In addition, staff will develop guidance figures to assist in identifying riparian areas.

The Forest Practice Rules equipment exclusion zones are incorporated in the Order for projects to meet the criteria for non-notifying Category A (II.A.1.a through II.A.1.c).

State Parks - 4

State Parks District requests delaying the implementation of this Order until a scientific basis concerning sedimentation following prescribed fire can be established.

Staff Response to Comment State Parks - 4

The Order's sediment and erosion control requirements relative to prescribed fire apply only to related soil disturbing activities, such as blading of control lines, and areas that may be susceptible to erosion. The requirements generally do not apply to prescribed fire itself, unless a particular prescribed fire has the potential to cause significant erosion, which is not anticipated. Regardless, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, the Amah Mutsun Tribal Band, Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

State Parks - 5

State Parks District would like to continue discussions with CCRWQCB regarding this Order and State Parks management, to better explain the processes already in place and to further discuss additional elements within the Order such as:

- *Limiting work windows that do not consider other seasonality such as fire season, bird nesting period, etc.*
- *Reduction in size of prescribed burns which is contrary to the Executive Order, Action Plans, and other scientific studies.*
- *Defining riparian habitat in a more concise manner.*
- *The requirement of compensatory mitigation for projects developed to mitigate hazards.*
- *Size thresholds for non-reporting activities.*

Staff Response to Comment State Parks - 5

Central Coast Water Board staff discussed these items with State Parks staff on July 25, 2024, and incorporated their input into the revised Order.

State Parks - 6

The requirement in the proposed order for vegetation management, to consider reducing prescribed fire plot size and conducting smaller burns over several years is contrary to the objectives of the governors Wildfire and Forest Resilience Action Plan. Decreasing plot size increases costs, risks to fire managers, and communities. The greater the ratio of edge to total acres, the greater the risk of escape and the resulting work required to treat fuels on these edges. Conducting prescribed burns over several years rather than once during a favorable weather window also increases the risk of inclement weather occurring during burning operations with the attendant increased risk of escape. Additionally smaller plots make it more difficult to achieve the goal of 'mosaic burn' effects which are recommended in the rule.

The vast majority of northern coastal California, as well as the Sierra foothills has deviated wildly from its ecologically appropriate fire regime. Adding constraints to prescribed fire is likely to result in continuing the trend of much larger, more intense wildfires that will negatively impact watersheds much more severely than the prescribed fires they are looking to regulate.

Staff Response to Comment State Parks – 6

Permit section VII.B.6 to plan multiple, smaller burns over multiple seasons has been removed from the Order.

Jones - 1

I have been in forestry, fire behavior, and all kinds of prescribed fire work for over 20 years. Low intensity, prescribed fire as planned and implemented by professionals and natural resources managers is beneficial to water quality. High intensity and catastrophic wildfire are detrimental to water quality, as well as riparian habitat, water chemistry and innumerable impacts in watersheds. Please do what you can to support the increased pace and scale of watershed management through applied beneficial, prescribed fire.

Staff Response to Comment Jones - 1

Prescribed fires are Category A (non-notifying) projects, provided basic protective measures are followed, so the Order should not slow down prescribed fire projects. In addition, this Order streamlines the permitting process for other vegetation management and removal activities that would otherwise be subject to individual waste discharge requirements, which are more time-consuming and resource-intensive than enrollment under a general order. As such, this Order supports increased pace and scale of this important fire risk reduction work.

CAL FIRE - 1

CAL FIRE recommends amendments to the definition of “Riparian Area.” The GWDR defines “riparian area” as “An area bordering a waterbody where surface or subsurface hydrology directly influences the ecological processes and plant and animal community structure in that area.” This definition is vague and may be interpreted in a manner that could greatly constrain activities (e.g., fuels treatment and fireline suppression repair activities) far away from waters of the state. Subsurface hydrology exerts a strong control on plant community structure irrespective of spatial proximity to a waterbody. As such, this definition of “riparian area” could potentially extend to ridgetops, where subsurface hydrology (i.e., soil moisture availability) can still exert control on plant community structure. CAL FIRE suggests rewording this definition and using the equipment exclusion zone (EEZ) widths in Section II.A.1 to define the spatial extent of the riparian area. This will provide project proponents with clear guidance on where their activities may have to be altered to provide for water quality protection. It is also consistent with the watercourse and lake protection zones standard project requirements in the California Vegetation Treatment Program (CalVTP).

Staff Response to Comment CAL FIRE - 1

The riparian area definition in Attachment C – Glossary has been modified to avoid interpretation that includes all areas that experience soil moisture. Use of standardized widths regardless of presence of riparian characteristics, as recommended in the comment, will result in over-application of requirements. Staff will develop additional guidance figures to assist with identifying riparian areas.

CAL FIRE - 2

CAL FIRE seeks clarification as to which projects fall within the scope of section II.A.1. (pg. 5). First, CAL FIRE recommends adding examples or a definition of ladder fuel management to alleviate existing ambiguity over what ladder fuel management might be. Typically, CAL FIRE considers ladder fuel management activities as including the removal of brush and small diameter trees, and the limbing of trees retained in the project area to meet the objects of a low intensity prescribed fire in the riparian area.

Second, CAL FIRE recommends the GWDR expand the prescribed fire projects that fall within the scope section II.A.1 to include projects with equivalent environmental protections. Section II.A.1. includes prescribed fire projects that are implemented with the mitigation measures identified in sections IV.A, B, and C of the Chaparral Management Program Final Environmental Impact Report (CMP FEIR). It is unclear why the CMP FEIR is specifically identified, because other Mitigated Negative Declarations (MNDs) or Environmental Impact Reports (EIRs) may have mitigation measures that meet or exceed the mitigation measures in the CMP FEIR. CAL FIRE recommends amending that section to read “that are implemented with the mitigation measures identified in sections IV.A, B, and C of the Chaparral Management Program Final Environmental Impact Report dated 1981 (or equivalent updated document), or another Mitigated Negative Declaration or Environmental Impact Report that contains mitigation measures that meet or exceed those mitigation measures...”

Staff Response to Comment CAL FIRE - 2

The Order has been modified to remove reference to the Chaparral Management Program Environmental Impact Report, but requirements to implement the mitigation measures identified in sections IV.A, B, and C of that document were generally retained in Order section VII.B. Projects that implement equivalent mitigation measures, regardless of the program under which they are conducted, can be enrolled as Category A (non-notifying) projects. Additionally, the scope of the Order has been reduced to include only local responsibility areas, significantly reducing the number of CAL FIRE projects that will be subject to the Order.

CAL FIRE - 3

CAL FIRE seeks clarification about whether heavy equipment may be used on projects that fall within the scope of section II.A.1.a.b.c (pg. 5-6).

As drafted, it is unclear whether heavy equipment may be used in Equipment Exclusion Zones (EEZs) working from existing roads. For example, can an excavator with a masticator head be used to treat vegetation in the EEZ from an existing road? CAL FIRE requests that the GWDR be amended to answer this question.

Staff Response to Comment CAL FIRE - 3

Equipment exclusion zones are intended to protect high value surface waters of the state and riparian areas. Heavy equipment such as excavators can be impactful to such areas even if remaining on established roads. Since the section referenced applies all heavy equipment, regardless of access, further clarification is not necessary.

CAL FIRE - 4

CAL FIRE recommends expanding the projects that fall within the scope of section II.A.3 (pg. 6). Section II.A.3 applies to CAL FIRE fire risk reduction activities that are California Environmental Quality Act (CEQA) exempt and have been reviewed by CAL FIRE and determined to have no significant environmental impact and no need for mitigation measures to reduce potential environmental impacts to less than significant levels. CAL FIRE recommends adding projects

that that may be approved utilizing a Negative Declaration under CEQA, because such projects also have no significant effect on the environment and no need for mitigation measures.

Staff Response to Comment CAL FIRE - 4

Projects that are exempt from CEQA generally do not have the potential for significant environmental impacts, typically due to their size or scope. Projects subject to a Negative Declaration, on the other hand, do have the potential for significant environmental impacts and can be much larger. Negative Declarations can also include mitigation to address impacts. In addition, Negative Declarations are subject to public comment. Projects subject to CEQA exemptions and Negative Declarations can be quite different in form, function, and process. As such, the Order only automatically includes CEQA exempt projects in Category A. Projects subject to a Negative Declaration can also be Category A, but that designation is not automatic based on CEQA documentation status.

CAL FIRE - 5

CAL FIRE recommends that fireline suppression repair conducted pursuant to Public Resources Code sections 4675 and 4676 be exempted from the GWDR.

Public Resources Code (PRC) sections 4675 and 4676 authorize CAL FIRE to prevent damaging floods, establish and maintain vegetative cover, and maintain watercourse channels free of natural impediments or destructive materials following wildfire. CAL FIRE conducts fireline suppression repair under this mantle. Fireline suppression repair includes, but is not limited to: installation of drainage structures on tractor or hand-constructed firelines, grading and restoration of drainage structures on roads, removal of soil and debris pushed into watercourses during fireline construction, and seeding, mulching, and implementation of other erosion control treatments to fireline approaches to water courses and other mechanically disturbed areas near streams.

As the GWDR is currently drafted, fireline suppression repair for extended attack fires would fall into the medium and high tiers of Category B, both due to increased fire size and the greater likelihood that watercourse adjacent firelines will exceed 0.2 to 0.5 acres. Category B requirements for stream diversion/dewatering, monitoring, and compensatory mitigation will greatly increase the time and cost necessary to conduct suppression repair activities. These requirements have the potential to increase the time needed to close out an incident and may jeopardize the use of e-fund monies to finance fireline suppression repair activities. CAL FIRE recommends that fireline suppression repair pursuant to PRC sections 4675 and 4676 be exempted from the GWDR.

Staff Response to Comment CAL FIRE - 5

Since fireline suppression repair is a post-fire response and recovery activity, it is not considered a fire risk reduction activity for the purposes of the Order, and therefore is not subject to regulation by the Order.

CAL FIRE - 6

CAL FIRE urges the Central Coast Water Board to consider whether III.E.6. (pg.14) advances the CNRA initiative of "cutting the green tape."

It is unclear whether Central Coast Water Board staff will have the capacity to review and approve the number of applications and follow up monitoring reports required by the GWDR. A lack of sufficient resources will result in administrative delays.

Staff Response to Comment CAL FIRE - 6

The Order has been edited to limit its application to local responsibility areas. Additional edits have been made to expand the types of projects that will qualify as non-notifying. Central Coast Water Board staff expect these changes to greatly reduce the number of projects enrolling under the Order. The permitting and regulatory process improvement efforts under the cutting the green tape initiative are related to ecological restoration projects. Projects with the primary purpose of restoration are outside of the scope of this Order and would proceed via other permitting pathways supporting those projects.

CAL FIRE - 7

CAL FIRE requests aquatic herbicide application be permitted within 25 ft of surface water in sections IV.F. (pg. 17) and VII.D.1. (pg. 25).

Sections IV.F. and VII.D.1. prohibit herbicide application within 25ft of surface water. This is too restrictive to adequately control invasive species within riparian areas or associated uplands. As recognized in section VII.D.5. (pg. 26), there are aquatic herbicides approved for use near water that should be exempted from this prohibition.

Staff Response to Comment CAL FIRE - 7

The prohibition in IV.F on herbicide use within 25 feet of surface water has been eliminated. Section VII.D.1 has been revised to specify that herbicides used within waters of the state and riparian areas must be approved and currently registered for aquatic use in California.

CAL FIRE - 8

CAL FIRE requests section V.D.2. (pg. 18) be amended to more effectively address existing site conditions. Under section V.D.2. the heavy equipment work window in waters of the state is from May 1 – Nov. 30. This timeframe is too restrictive and should be based on site conditions rather than specific dates. Project sites may have no rain in early winter or early spring and projects should be allowed to be implemented if no rain is predicted. Moreover, the current work window as stated is primarily during height of fire season, which will make completing projects difficult and increases the risk of an accidental ignitions given the drying conditions during the work window. In addition, CAL FIRE is concerned that, as Nov. 30 nears, the water board's staff will become inundated with extension requests and may not be able to process them in a timely manner to continue project work.

Staff Response to Comment CAL FIRE - 8

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.1 has been revised to allow year-round vegetation management and removal activities for fire risk reduction. The work window for sediment removal and management project activities has been updated to June 1 to September 30 in section V.D.2.

CAL FIRE - 9

CAL FIRE asks that section V.E.4 (pg. 19) be amended so that CAL FIRE has the ability to comply.

Under section V.E.4., access roads must be stabilized with no threat of erosion or sediment discharge within 48 hours of completion of work at that location, and access and use by non-project vehicles and heavy equipment shall be restricted.

CAL FIRE commonly partners with private landowners to conduct fuel reduction projects. CAL FIRE cannot unilaterally impose travel restrictions on private landowners on private property. Therefore, Cal Fire proposes to amend the second sentence of V.E.4 to: "Illicit access and use by non-project vehicles and heavy equipment shall be restricted."

Staff Response to Comment CAL FIRE - 9

This requirement is specific to activities with the primary purpose of fire or flood risk reduction. It is intended to exclude non-project vehicles from temporary access roads created specifically for project ingress and egress. The language has been modified for clarity.

CAL FIRE - 10

CAL FIRE requests section V.C.5 (pg. 18) be clarified to identify the specific cover that must be revegetated.

Section V.C.5 requires that, after project activities, temporarily disturbed areas shall be revegetated and meet success criteria of 70 percent native vegetation cover or a percent cover equal to or greater than pre-project conditions. As drafted, it is unclear whether the percent cover requirement applies to surface cover or canopy cover. Many fuels reduction projects are designed to reduce the vertical and horizontal distribution of fuel. Retaining large trees and overstory canopy are typical project design prescriptions. However, retaining surface vegetative cover might negate or reduce the effectiveness of a fuels reduction project. CAL FIRE requests section V.C.5 be amended to identify the specific cover that must be revegetated.

Staff Response to Comment CAL FIRE - 10

This requirement was not intended to apply to activities that do not disturb soil, such as prescribed burns. It was intended to address soil disturbing activities such as blading access routes. However, section V.C.5 requiring 70 percent coverage has been removed from the Order, though requirements to implement erosion control measures remain in section V.C.3 (formerly V.C.2). Bare soil areas, particularly on slopes, can erode rapidly and discharge sediment to creeks, impairing beneficial uses.

CAL FIRE - 11

CAL FIRE recommends amending section V.D.1. (pg. 18) to be consistent with the CalVTP. Section V.D.1 provides that a "Discharger shall not conduct project activities in waters of the state or riparian areas...on any day for which the National Weather Service has predicted a 25 percent or more chance of at least 0.1-inch rain in 24 hours (Predicted Rain Event)." In the CalVTP, standard project requirement GEO-1 provides: "The project proponent will suspend mechanical, prescribed herbivory, and herbicide treatments if the National Weather Service forecast is a "chance" (30 percent or more) of rain within the next 24 hours. Activities that cause mechanical soil disturbance may resume when precipitation stops and soils are no longer saturated (i.e., when soil and/or surface material pore spaces are filled with water to such an extent that runoff is likely to occur)." To avoid conflicting standards, CAL FIRE requests that section V.D.1. be amended to be consistent with this requirement.

Staff Response to Comment CAL FIRE - 11

The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

CAL FIRE - 12

CAL FIRE recommends amending section VII.A.2 (pg. 23) to enhance the effectiveness of ladder fuel treatment. Section VII.A.2. provides that, to the maximum extent practicable, projects should limit ladder fuel trimming to a maximum of six feet from the ground. However, setting a specific height for ladder fuel limbing is difficult because the goal is to decrease the likelihood a surface fire can carry into the canopy. This needs to be a project specific prescription to increase the riparian habitat's resilience to fire. Therefore, CAL FIRE requests that the six-foot recommendation be removed from section VII.A.2 and be replaced with a standard that better accounts for varying project conditions.

Staff Response to Comment CAL FIRE - 12

Central Coast Water Board staff recognizes that appropriate heights can vary based on site-specific conditions. The permit language has been modified to allow flexibility in ladder fuel removal heights by increasing the removal height to eight feet from the ground, unless site-specific conditions and professional judgment deem a greater height necessary.

CAL FIRE - 13

Amend sections VII.A.3 and 4 (pg. 23) to ensure the requirements do not conflict with one another.

Section VII.A.3 provides that projects should retain large woody debris to the maximum extent practicable consistent with project fire and flood risk reduction goals. Section VII.A.4 provides that, when using slash to stabilize disturbed soils, projects should limit limb size to a maximum of 4 feet in length, and work all slash into the soil or remove it from the work area. However, these two requirements can be contradictory of one another. Slash can be considered large woody debris, and retaining such slash/woody debris in sections greater than 4 feet on site may result in better habitat. CAL FIRE recommends amending these sections so that they are less likely to conflict with one another and result in confusion over which section must be complied with.

Staff Response to Comment CAL FIRE - 13

Condition VII.A.4 has been removed from the Order.

CAL FIRE - 14

CAL FIRE requests clarification regarding the buffer requirements in section VII.B.1. (pg. 23). It is unclear what the intent of the 50-foot buffer is, what potentially "sensitive resources" might require a buffer, and what activities are excluded within the 50-foot buffer, particularly in light of the fact that section VII.B.5 provides that low-intensity fire can be used in waters of the state and riparian areas. Does this buffer exclude heavy equipment, but allow the use of hand work and prescribed fire? CAL FIRE asks that section VII.B.1. be amended to answer these questions.

Staff Response to Comment CAL FIRE - 14

The requirement for a 50-foot buffer around sensitive resources and any surface water in section VII.B.1 has been eliminated from the Order.

CAL FIRE - 15

CAL FIRE recommends removing head fires from section VII.B.5 (pg. 24). Section VII.B.5 provides that, to the maximum extent practicable, projects should employ ignition patterns like head fires or flanking fires to promote low-intensity burns. However, a head fire is the hottest, fastest moving fire having the most intense impacts. Typically, it is best to utilize backing or flanking fire in and adjacent to riparian areas to 1) consume surface fuels with minimal impacts to the overstory and 2) to have a mosaic burn pattern. CAL FIRE recommends amending section VII.B.5. accordingly.

Staff Response to Comment CAL FIRE - 15
Section VII.B.5 has been removed from the Order.

CAL FIRE - 16

CAL FIRE requests that section VII.D.1. (pg. 25) be amended to clarify what “hand application” means. Section VII.D.1. provides that only hand application of herbicides is permitted. It is unclear what activities are considered “hand application” (i.e. is a backpack sprayer considered hand application?). CAL FIRE requests that a definition of “hand application” or examples be provided.

Staff Response to Comment CAL FIRE - 16
Section VII.D.2 (formerly VII.D.1) has been modified for clarity. A backpack sprayer is considered hand application and is a permitted method of herbicide application. Broadcast and aerial application is not permitted. The word 'targeted' has been inserted for clarity.

CAL FIRE - 17

CAL FIRE requests that section X.B.2.d. (pg.39) be removed. Section X.B.2.d. provides that burn plans must include a description of how the following requirement will be implemented: “Implementation of multiple smaller burns over several seasons instead of one large burn.” However, this directive is contrary to the Governor’s mandate to increase the pace and scale of fuel reduction treatments as outlined in Executive Order B-52-18, Executive Order N-05-19, the Forest Management Task Force issued the Wildfire and Forest Resilience Action Plan, and the August 2020 Memorandum of Understanding between the State of California and the United States Department of Agriculture, Forest Service, Pacific Southwest Region. Implementing smaller burns will decrease pace and scale. Also, riparian areas are typically a small portion of larger burns, where low intensity backing fires are applied. Moreover, depending on the scope of the project, breaking burn units into smaller sections may increase potential impacts to riparian areas and waters of the state.

Staff Response to Comment CAL FIRE - 17
Section X.B, which required a Prescribed Fire Plan, has been removed from the Order.

San Mateo RCD - 1

SMRCD recommends that the Water Board seek consistency of requirements of the Order with those of the California Vegetation Treatment Program (CalVTP) and other existing regulations to ensure water quality protections are met while not increasing barriers to implementation of these important projects. Additionally, we recommend that the Water Board allow longer comment on this proposed rule and delay its implementation and encourage the Water Board to

engage experts to ensure that statements and requirements in the Order are scientifically based, with robust input and review from scientific experts and supported by published research.

Staff Response to Comment San Mateo RCD – 1

The Order has been modified to only apply in local responsibility areas. As such, it is not expected to conflict with CalVTP. In addition, the Order is consistent with other existing regulations, such as those for defensible space. While Central Coast Water Board staff contacted and/or collaborated with groups such as CAL FIRE, resource conservation districts, municipal fire departments, tribes, and prescribed burn associations during development of the Order, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, the Amah Mutsun Tribal Band, the Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

San Mateo RCD - 2

Generally speaking, sediment management for flood risk reduction and vegetation management for fire risk reduction are two very different actions. The order does not clearly differentiate what practices are for sediment removal and what practices are for vegetative treatments. In addition, many specific activity requirements outlined in this draft order lack clarity for those who need to implement them where in most cases, these rules exist in the Forest Practice Rules (FPR's) or CalVTP Standard Project Requirements. Land stewards and contractors need consistency among rule sets to implement appropriately to protect waters of the state. It is recommended that CCRWQCB look closely at where they can utilize and make reference to rules that have already been approved, especially for vegetation management, that are supported or have already been approved by the State Water Board such as the water resource protective measures outline in the FPR's or CalVTP.

Staff Response to Comment San Mateo RCD - 2

Fire and flood risk reduction activities both involve vegetation removal and produce similar wastes and concentration of wastes, including sediment, vegetative material, herbicides, bacteria, nutrients, and petroleum products. The Order's requirements are activity-specific rather than purpose-specific, allowing the relevant requirements to be applied based on the nature of the activity. The Order's headings distinguish which requirements apply to which activities. Central Coast Water Board staff reviewed the CalVTP and incorporated management practices where appropriate. For instance, the equipment exclusion and limitation zones, canopy protections, rain event restrictions, and sediment and erosion control measures align closely with CalVTP standards to ensure consistent protection of water quality. The Order has been modified to apply only within local responsibility areas, eliminating overlap with CalVTP-regulated areas. The Order will not interfere with other existing regulations, such as those for defensible space.

San Mateo RCD - 3

Page 6 Covered Activities A(3) "CAL FIRE fire risk reduction activities that are California Environmental Quality Act (CEQA) exempt and have been reviewed by CAL FIRE and determined to have no significant environmental impact and no need for mitigation measures to reduce potential environmental impacts to less than significant levels. " It is recommended that

fire risk reduction activities that are determined by any eligible lead agency to be CEQA exempt as having no significant environmental impact be defined as non-notifying activities.

- *RCDSCC advises that projects determined to be CEQA exempt by other public agencies such as RCDs, CA State Parks, etc. should also be non-notifying. Current language reads that only CalFire exemptions are non-notifying.*

Staff Response to Comment San Mateo RCD - 3

The Order language has been revised at section II.A.3 and now applies to CEQA-exempt fire risk reduction activities reviewed by any CEQA lead agency, not just CAL FIRE.

San Mateo RCD - 4

Page 18 (D. Project Timing), (1.) – Recommend changing to a 30% forecast and .20 inch of rain in 24 hours (Predicted Rain Event) to maintain continuity with Cal VTP PSA’s for CRLF from USFWS and FPR recommendations for CRLF from USFWS. Although it is species specific to CRLF, it maintains alignment with regulatory requirements that contractors and land stewards already implement consistently. The addition of a slightly increased standard will create unnecessary confusion and inconsistency with other regulatory documents.

Staff Response to Comment San Mateo RCD - 4

The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

San Mateo RCD - 5

Page 18 (D. Project Timing), (2.) – Recommend following the operational guidelines in the FPR’s and CalVTP that have been utilized successfully for vegetative treatments and not set a May 1 to November 30th operational window. Suggested language to consider: Equipment operations should be limited on rainfall amounts and time frames for start-up following rain events i.e. .2 inches of rain 24 hour shut down (meshes with USFWS requirements), .2-1.0 inches 48 shutdown, 1-2 inches 72 hour shutdown, no operations on saturated soils, operations may only occur from a stable operating surface, no equipment operations in a watercourse and lake protection zone unless it is from an existing road, etc...

- *Instituting this time frame will create significant cumulative impacts to vegetative treatment operations already constrained by nesting bird season – February 1st – August 15th, specifically Marbled Murrelet - March 23rd - September 1st, CRLF movement period - October 1st to May 1st each year upon a ¼” of rain. Its why the FPR’s and CalVTP PEIR were developed in a manner that allows operations based on conditions rather than dates.*

Staff Response to Comment San Mateo RCD - 5

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction. The work window for sediment removal and management project activities has been updated to June 1 to September 30.

San Mateo RCD - 6

Page 18 (E. Roads),(1-5)

- *Unclear what part of this order is for sediment removal and what is for vegetative treatments. For example, Item 2. "Equipment shall not be driven through any wetted channel unless to accomplish sediment removal following diversion and dewatering". This would never be proposed as part of any vegetation removal project and should be clearly defined within the order as pertaining only to sediment removal for flood risk reduction.*
- *It is unclear whether an access road or access route is different or the same as an existing road. Recommend defining.*

Staff Response to Comment San Mateo RCD - 6

Headings within the Order state which requirements apply to all projects, which apply to Category B projects, or if requirements are activity-specific, either for all projects or with additional required measures for Category B projects. General conditions should be interpreted as conditions that apply to all projects and therefore are more general protective measures. The general conditions should be considered if applicable. The condition to not drive equipment through wetted channels applies to both flood risk reduction and fire risk reduction activities but with a necessary exception that applies to some sediment removal activities. Activity-specific conditions are more detailed requirements for specific classes of activities. The term "access roads" in section V.E refers to temporary roads created specifically for project ingress and egress. The language has been modified for clarity.

San Mateo RCD - 7

Page 22 (B. Project Delineation)

Clearly identify and delineate, by flagging or staking, the boundaries of the project area or invasive species removal areas. Project boundaries and invasive species removal areas are successfully delineated for operations in ARC GIS Field Maps, or Avenza and should be an accepted method to reduce flagging or staking on the landscape.

Staff Response to Comment San Mateo RCD – 7

The flagging or staking serves to delineate project areas onsite so that during project activities, impacts do not occur outside of the permitted area. Permit language has been amended to include the option to use handheld devices or devices in project equipment that enable dischargers to track their location relative to the boundaries of the project area, sensitive resources to be avoided, and the boundaries of any invasive species removal areas.

San Mateo RCD - 8

Page 23 (A. Vegetation Removal or Management) – *Recommend a clear delineation between what is for sediment removal and what is for vegetation removal – For example, (A. Vegetation Removal or Management)(4.) It is highly unlikely that a vegetation removal project would "work all slash into the soil" in a riparian area or in waters of the state" as part of a vegetation removal project.*

Staff Response to Comment San Mateo RCD - 8

Requirements in this section apply to vegetation removal or management and do not differentiate between flood or fire risk reduction purposes. If there are requirement for types of activities that are not included in a specific project, then the requirements would not apply to that project. Condition VII.A.4 has been removed from the Order.

San Mateo RCD - 9

Page 24 (C. Prescribed Herbivory) (1-9) – This section references livestock, herbivory, and grazing operations interchangeably. Clarify that this order is specific to vegetation management activities associated with prescribed grazing and herbivory, and not broadly applicable to livestock operations.

Staff Response to Comment San Mateo RCD - 9

The Order was modified to provide more consistency and clarity for language related to prescribed herbivory for vegetation removal for fire risk reduction activities.

San Mateo RCD - 10

Page 42 (E. Invasive Species Treatment Plan) – Would this be required for non-foliar application of herbicide as well? Invasive species are not only increasing fire hazards on the Central Coast but also threaten many unique habitat types that harbor threatened and endangered species. Increasing barriers to implementing invasive species treatment projects will have negative impacts on recovery of special status species in addition to promoting hazardous fuels.

- *Suggestion to advise projects follow California Invasive Plant Council (CalIPC) Best Management Practices (BMPs) which is consistent with the CalVTP: <https://www.cal-ipc.org/resources/library/publications/landmanagers/>*

Staff Response to Comment San Mateo RCD – 10

The Order has been modified to include invasive plant treatment activities conducted without root disturbance or mechanical removal or management into Category A. As such, an invasive species treatment plan will not be necessary for many invasive species treatment projects. For those projects that do necessitate a plan, a description of CalIPC Best Management Practices that apply to the specific project would be acceptable to include in the approved invasive species treatment plan, as stated in section X.D.1.c.i of the Invasive Species Treatment Plan requirements. The rest of the requirements, such as identifying species to be removed and any post-treatment maintenance to prevent regrowth are typical for projects permitted by the Water Boards. It is worth noting that this Order regulates projects for the primary purpose of flood or fire risk reduction and certain invasive species treatment projects are more appropriately enrolled in other streamlined Water Boards orders for ecological restoration projects.

San Mateo RCD - 11

A final observation regarding the order is that it could significantly impact the feasibility for private landowners to conduct vegetation treatments due to complexity of regulatory compliance across multiple agencies. It is recommended that the CCRWQCB provide an analysis of costs expected for a landowner to follow the requirements of the proposed order, and seek opportunities for consistency with existing regulation.

Staff Response to Comment San Mateo RCD - 11

Central Coast Water Board staff expects the cost of complying with the Order for most private landowners to be negligible. Most activities conducted by private landowners will be non-notifying under the Order and allowed to proceed as planned, provided basic protective measures are implemented. Basic protective measures are required regardless of the Order.

The Porter-Cologne Water Quality Control Act (California Water Code Div. 7) directs the Central Coast Water Board to regulate discharges of waste to protect the beneficial uses of waters of the state and the Basin Plan prohibits discharge of materials to surface waters of the state in quantities deleterious to fish, wildlife, and other beneficial uses. Activities addressed by the Order that should not experience increased costs to private landowners include prescribed fire, maintenance of defensible space, CEQA exempt activities, small emergency activities, many dead tree and debris removal activities, various invasive plant treatments, limited prescribed herbivory, and activities limited to 0.1 acre or less. In addition, the Order will authorize many activities that would otherwise trigger individual waste discharge requirements, which are much more time intensive regulatory mechanisms and therefore more costly to dischargers than this Order.

Activities requiring notification and active enrollment are most likely to be large projects conducted by public agencies. For such projects, the application fee is currently \$3,945. As with non-notifying projects, basic measures to protect water quality should be implemented regardless of the Order. As such, the cost of implementing such measures is not wholly attributable to the Order. However, costs will likely be incurred for notifying project planning activities such as project delineation, training, and development of activity-specific plans (e.g., vegetation management or sediment management plans). These activities are expected to cost \$2,000 to \$6,000, with the lower range of the cost estimate representing smaller, lower impact projects and the upper range of the cost estimate representing more complex, high impact projects. Restoration/mitigation plans are expected to range from \$2,000 to \$12,000 to develop. Implementation of restoration/mitigation, including maintenance, monitoring, and reporting, is expected to cost \$60,000 to \$120,000 per acre. Most restoration/mitigation projects will be much smaller than an acre. It is important to note that most or all of these costs can be avoided by designing projects to reduce impacts so that the projects are eligible to be non-notifying.

When discussing dischargers' costs of implementing the Order's requirements, it is also important to consider the alternative costs incurred by not implementing the Order's requirements, as well as the benefits that result from Order implementation. Riparian buffers can provide over \$10,000 per acre per year in monetized benefits, with additional non-monetized benefits expected to increase this total.¹ Proximity to riparian areas can increase property values by 10 to 27 percent. Waters of the state and riparian areas provide wildlife and fish habitat. Recreation is one aspect of the value of wildlife and fish, with fishing-related expenditures in the United States estimated at more than \$37 billion in 1996. Riparian forests also intercept and absorb sediments, nutrients, and other pollutants. More than \$2 billion is spent annually in the United States for clean water initiatives, indicating the value of clean water.² While it is difficult to fully characterize the monetary benefits of healthy surface waters of the state and riparian areas, it is clear the benefits are significant. The Order serves to preserve these benefits.

Regarding consistency with existing regulations, Central Coast Water Board staff reviewed the CalVTP and incorporated management practices where appropriate. For instance, the equipment exclusion and limitation zones, canopy protection, rain event restrictions, and

¹ ECONorthwest. 2018. The Economic Value of Riparian Buffers in the Delaware River Basin. Prepared for: Delaware Riverkeeper Network.

² Jones, Greg. 2008. Social and economic value of riparian environments. In: Finch, Deborah M. Rocky Mountain Riparian Digest. Rocky Mountain Riparian Digest. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station.

sediment and erosion control measures align closely with CalVTP standards to ensure consistent protection of water quality. The Order has been modified to apply only within local responsibility areas, eliminating overlap with CalVTP-regulated areas. The Order will also not interfere with other existing regulations, such as those for defensible space.

San Mateo RCD - 12

Compensatory planting of trees should not be required if site meets stocking standards following treatment. Overstocking of trees in many forest types from fire suppression is contributing to environmental degradation and increasing wildfire hazards.

Staff Response to Comment San Mateo RCD – 12

This Order regulates activities conducted in surface waters of the state and riparian areas only, and trees serve distinct ecological functions in riparian habitat compared to upland forests. The Order allows for tree replacement to be conducted offsite. This allows for consideration of applicable stocking standards and recommendations from a qualified forester. In addition, the Order provides dischargers the option of proposing alternative mitigation approaches if overstocking is a concern. Stocking standards apply to commercial tree species following timber harvesting to ensure future commercial timber viability. Since most riparian tree species are not commercial and timber harvesting is substantially restricted within surface waters and riparian areas, stocking standards are not directly applicable to work regulated by the Order.

San Mateo RCD - 13

Exclude/Exempt grasslands from the 5 year window under “VI. Additional General Conditions for Category B Projects. 1. Category B low tier project activities...”

- *It is often ecologically imperative to burn more frequently (every 2-4 years) in these ecosystems. Burning of grassland results in little to no sedimentation issue, as a thatch layer is often left and roots of shrubs/ perennial grasses remain.*

Staff Response to Comment San Mateo RCD - 13

Prescribed fires are Category A projects, provided basic protective measures are followed, so this requirement should not apply to prescribed fires. In addition, the Order only applies to prescribed fires in surface waters of the state and riparian areas. The words "one-time" have been removed to allow vegetation removal activities to be repeated on an annual basis, as needed.

San Mateo RCD - 14

Clarify Section “VII. Activity Specific Conditions for All Projects. A. Vegetation Removal or Management. 1. Retain native trees and shrubs with a diameter of four inches or more at breast height to the maximum extent practicable. Trees that require removal shall be felled away from adjacent streams or waterbodies and piled outside of the riparian area, unless being retained to provide wildlife habitat.”

- *Is this rule only within the riparian area? Overall objectives within a burn unit often include reducing small tree density to enhance the health and resilience of larger trees, size being species/ecosystem dependent.*

Staff Response to Comment San Mateo RCD - 14

All references to vegetation management or removal pertain to activities conducted in riparian areas. This Order does not regulate activities or discharges occurring outside surface waters of

the state or riparian areas. This has been clarified in footnote 3 of the Order. The Order's protection of riparian trees is consistent with the San Mateo RCD's Community Wildfire Protection Plan, which states "leave all the mature vegetation within 100 feet of standing water, 50 feet of a year-round stream, and 20-30 feet of a stream that goes dry regularly" and "retain as many native trees and understory species as possible."

San Mateo RCD - 15

Modify Section "VII. Activity Specific Conditions for All Projects. A. Vegetation Removal or Management. To the maximum extent practicable, retain canopy cover and limit ladder fuel trimming to a maximum of six feet from the ground" to 8-10 feet from the ground, allowing people to work safely under canopy.

Staff Response to Comment San Mateo RCD - 15

Central Coast Water Board staff recognizes that appropriate heights can vary based on site-specific conditions. The Order language has been modified to allow flexibility in ladder fuel removal heights by increasing the removal height to eight feet from the ground, unless site-specific conditions and professional judgment deem a greater height necessary.

San Mateo RCD - 16

Correct errors and clarify requirements within the prescribed fire section.

- *"4. ...implement a mosaic burn pattern..." Although fire naturally tends to burn in a mosaic across the landscape, it's generally not possible to exclude specific areas in any given burn unit without additional disturbance, such as containment line construction.*
- *"5. ...employ ignition patterns like head fires or flanking fires to promote low intensity burns." A head fire does not lead to low intensity burns (Birch et al., 2023). Additionally, grassland and brushlands respond positively and rapidly to burning, including those of high intensity, which are part of the historical fire regime. As such, they should be excluded from this.*
- *"6. ...plan multiple, smaller burns over several seasons..." The word "smaller" should be clarified. Everything is smaller than highly impactful wildfires.*

Staff Response to Comment San Mateo RCD - 16

The referenced conditions have been removed from Order section VII.B.

San Mateo RCD - 17

Correct conflict with state law regarding "B. Prescribed Fire Plan. 1."

- *Landowners have a right to burn without a burn plan in Cal Fire units that have an open burn season (B units).*

Staff Response to Comment San Mateo RCD - 17

The requirement to submit a prescribed fire plan has been removed from sections VIII.B.1 and X.B.

San Mateo RCD - 18

Modify "B. Prescribed Fire Plan. 2. c." to exclude grassland and shrubland, which are adapted to high intensity fire.

Staff Response to Comment San Mateo RCD - 18

Section B. Prescribed Fire Plan has been removed from the Order. Additionally, this Order does not regulate activities or discharges occurring outside surface waters of the state or riparian areas, so upland areas are excluded from Order conditions related to vegetation management. This has been clarified in footnote 3 of the Order.

CCPBA - 1

A combination of factors, such as climate change and long-term fire exclusion, have led to increased intensity and scale of wildfires across the State in recent years. These unprecedented wildfires have an adverse and documented effect on riparian areas, sediment flow, drinking water infrastructure and water quality. It is imperative that landowners and land managers have the ability to proactively improve ecosystem resilience, and thus community resilience to wildfire. Prescribed fire is an integral tool in achieving these goals.

Staff Response to Comment CCPBA - 1

Comment noted.

CCPBA - 2

The vast majority of the literature addressing postfire erosion is specifically related to large wildfire events, many of these being uncharacteristically high severity wildfires. Of the sources we found that address the effects of prescribed fire on erosion specifically, the documented erosive effects overall were nil to minimal where any necessary recovery was swift and complete (Beche et al., 2005; Arkle & Pilliod 2010; Pilliod & Arkle, 2012; Bixby et al., 2015; Klimas et al. 2020; Beyenne et al. 2023). Please note, full references are provided on page 4.

Staff Response to Comment CCPBA - 2

Comment noted. Conditions for erosion and sediment control that apply to prescribed fire projects only address activities that disturb soil, such as grading of control lines within surface waters of the state and riparian areas. Such areas can be an ongoing source of erosion and sediment, especially in sloped areas. Erosion and sediment control measures are straightforward and justified in such cases.

CCPBA - 3

It is our recommendation that the Central Coast Regional Water Quality Control Board delay the implementation of this rule until a solid scientific basis concerning prescribed fire can be established. A delay in the implementation of the rule, would allow time for willing partners, such as The University of California Agriculture and Natural Resources, California Fire Science Consortium, the CCPBA and other fire professionals, to make sure the rule is based on best available prescribed fire science and be better crafted to allow the all-important increase in scale.

Staff Response to Comment CCPBA - 3

While Central Coast Water Board staff contacted and/or collaborated with groups such as CAL FIRE, resource conservation districts, municipal fire departments, tribes, and prescribed burn associations during development of the Order, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff held additional discussions with the San Luis Obispo

County Fire Safe Council, California State Parks, the Amah Mutsun Tribal Band, Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

CCPBA - 4

This rule as currently proposed, is not based on scientific findings or on-the-ground experience and will pose a significant barrier to increasing the pace and scale of “good fire” as stated by the Governor’s Wildfire and Forest Resilience Taskforce (<https://wildfiretaskforce.org/wp-content/uploads/2022/05/californias-strategic-plan-for-expanding-the-use-of-beneficial-fire.pdf>). The scientific basis for these decisions, as has been stated by the CCRQCB, stem from the CA Forest Practice Rules, however, the Forest Practice Rules currently have very little information on prescribed burning.

Staff Response to Comment CCPBA - 4

One purpose of the Order is to streamline the permitting process, providing a more efficient alternative to obtaining individual waste discharge requirements. Acquiring individual waste discharge requirements is an alternative regulatory approach for projects not covered under this Order and typically involves a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses. Only projects within surface waters of the state and riparian areas are addressed by the Order. In addition, all prescribed burn projects will be category A, provided minimum best management practices are followed. Similarly, defensible space work will also be Category A, provided the work is the minimum required within surface waters of the state and riparian areas. The qualifications for Category A projects have also been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed whipping of vegetation. Furthermore, section I.A of the Order has been modified to limit application of the Order to local responsibility areas.

The requirements of the Order are intended to maintain the functions and beneficial uses of surface waters of the state and riparian areas as identified by the Central Coast Riparian Rapid Assessment Method (RipRAM). RipRAM is a USEPA-funded, Central Coast-specific methodology developed in a joint effort by the Central Coast Wetlands Group, the Southern California Coastal Water Research Project, the San Francisco Estuary Institute, and others. The method is tailored to Central Coast conditions and was validated at Central Coast locations. The metrics RipRAM uses to indicate ecological functions and benefits, and which the Order seeks to maintain, include total riparian cover, vegetation cover structure, vegetation cover quality, age diversity and natural regeneration, riparian vegetation width, riparian soil condition and permeability, macroinvertebrate habitat patch richness, and anthropogenic alterations to channel morphology. The California Rapid Assessment Method (CRAM) also includes metrics for surface waters of the state habitat health similar to those used by RipRAM. CRAM is applied to streams and areas immediately adjacent to streams. The Order also aims to preserve stream health in accordance with CRAM metrics.

CCPBA - 5

Furthermore, Native peoples of California have, since time immemorial, used cultural fires to maintain riparian areas for travel, hunting, and gathering. Cultural fire was and continues to be used by California Tribes to create disturbance to improve fiber condition in riparian species. For

example, Lake (2007) documented Karuk basket weavers' practice of augmenting flood disturbance to willows and other basketry plants with cultural application of fire. Other tribes used fire to achieve similar objectives in aquatic, forest, and grassland environments (e.g. Long et al. 2021).

Staff Response to Comment CCPBA - 5

Comment noted.

CCPBA - 6

*Many watercourses in CA, which were adapted to 15,000 years of cultural burning, have suffered from the exclusion of cultural burning and herbivory by beavers, resulting in large, senescent willow (*Salix* species) and alder (*Alnus rubra*) compared to pre-contact reference conditions. In addition to reducing the availability of cultural resources, this reduced coppicing of riparian trees and shrubs may decrease aquatic habitat quality. In some areas in the coastal fog belt, this closed canopy results in temperatures that are too cold for optimal salmonid rearing (e.g. Woelfle-Erskine et al. 2017) and also decreases primary productivity. Dense riparian vegetation also decreases streamflow via the riparian pump effect, where increased transpiration from riparian forests decreases streamflow and accelerates stream drying. Reducing tree density through thinning or beneficial fire may delay stream drying, improving aquatic habitat conditions. While beneficial fire is not a panacea for these issues, it is an important tool which needs nuance and context to be sited appropriately. In their current form, the proposed rules, specifically the recommendation to retain all trees greater than 4" DBH and to not reduce canopy cover in riparian forests are not supported by ecological science in the central coast region.*

Staff Response to Comment CCPBA - 6

The requirements of the Order are intended to maintain the functions and beneficial uses of surface waters of the state and riparian areas as identified by the Central Coast Riparian Rapid Assessment Method (RipRAM). RipRAM is a USEPA-funded, Central Coast-specific methodology developed in a joint effort by the Central Coast Wetlands Group, the Southern California Coastal Water Research Project, the San Francisco Estuary Institute, and others. The method is tailored to Central Coast conditions and was validated at Central Coast locations. The metrics RipRAM uses to indicate ecological functions and benefits, and which the Order seeks to maintain, include total riparian cover, vegetation cover structure, vegetation cover quality, age diversity and natural regeneration, riparian vegetation width, riparian soil condition and permeability, macroinvertebrate habitat patch richness, and anthropogenic alterations to channel morphology. The California Rapid Assessment Method (CRAM) also includes metrics for surface waters of the state habitat health similar to those used by RipRAM. CRAM is applied to streams and areas immediately adjacent to streams. The Order also aims to preserve stream health in accordance with CRAM metrics.

Native trees with 4-inch dbh or greater and native tree canopy are components of the following RipRAM metrics: total riparian cover, vegetation cover structure, vegetation cover quality, and age diversity and natural regeneration. Native trees with 4-inch dbh or greater and native tree canopy increase total riparian cover, contribute positively to vegetation structure, improve vegetation cover quality by providing native species and creating gallery structure, and exhibit vegetation community age diversity and natural regeneration. Considering the functions and

values provided by native trees with 4-inch dbh or greater and native tree canopy, it is important to minimize removal of such trees for the majority of riparian areas in local responsibility areas. That being said, there is the possibility for uncommon riparian areas on the Central Coast to benefit in terms of riparian functions and values from thinning of such trees.

To accommodate this possibility, the Order's requirements that are applicable to all projects conducting vegetation management and removal have been edited to focus on preservation of vegetative cover, structure, and quality, rather than preservation of trees of a particular size. The edits are consistent with the riparian protection requirements of the CalVTP, which has already been approved by the State Water Resources Control Board. In addition, the Order's requirements for mitigation for removal of native trees has been edited to provide dischargers the option to demonstrate their proposed tree removal will provide benefits to riparian functions and values. Dischargers can do so by comparing proposed riparian conditions with a reference site or by demonstrating proposed riparian conditions will improve the site's RipRAM score.

It is worth noting that the study cited in the comment (Woelfle-Erskine et al. 2017) as supporting greater riparian tree removal was conducted outside the central coast region, in the Salmon Creek watershed of Sonoma County. The authors of the study conclude that their findings regarding negative impacts of cold water temperatures on steelhead likely don't apply in areas such as the central coast region, stating: "In less shaded regions or in drier intermittent streams (e.g., those further to the south), increases in temperature may more immediately promote steelhead mortality."

CCPBA - 7

Clarify Section "VII. Activity-Specific Conditions for All Projects. A. Vegetation Removal or Management. 1. Retain native trees and shrubs with a diameter of four inches or more at breast height to the maximum extent practicable. Trees that require removal shall be felled away from adjacent streams or waterbodies and piled outside of the riparian area, unless being retained to provide wildlife habitat."

- *In some cases reducing canopy cover or stem density can be beneficial to aquatic habitat conditions. Suggest incorporating process-based language such as, retain a mix of trees, shrubs, grasses, and forbes that will contribute to aquatic habitat quality (flow, T, nutrient filtering).*

Staff Response to Comment CCPBA - 7

The requirements of the Order are intended to maintain the functions and beneficial uses of surface waters of the state and riparian areas as identified by the Central Coast Riparian Rapid Assessment Method (RipRAM). RipRAM is a USEPA-funded, Central Coast-specific methodology developed in a joint effort by the Central Coast Wetlands Group, the Southern California Coastal Water Research Project, the San Francisco Estuary Institute, and others. The method is tailored to Central Coast conditions and was validated at Central Coast locations. The metrics RipRAM uses to indicate ecological functions and benefits, and which the Order seeks to maintain, include total riparian cover, vegetation cover structure, vegetation cover quality, age diversity and natural regeneration, riparian vegetation width, riparian soil condition and permeability, macroinvertebrate habitat patch richness, and anthropogenic alterations to channel morphology. The California Rapid Assessment Method (CRAM) also includes metrics for surface waters of the state habitat health similar to those used by RipRAM. CRAM is applied to streams and areas immediately adjacent to streams. The Order also aims to preserve stream health in accordance with CRAM metrics.

Native trees with 4-inch dbh or greater and native tree canopy are components of the following RipRAM metrics: total riparian cover, vegetation cover structure, vegetation cover quality, and age diversity and natural regeneration. Native trees with 4-inch dbh or greater and native tree canopy increase total riparian cover, contribute positively to vegetation structure, improve vegetation cover quality by providing native species and creating gallery structure, and exhibit vegetation community age diversity and natural regeneration. Considering the functions and values provided by native trees with 4-inch dbh or greater and native tree canopy, it is important to minimize removal of such trees for the majority of riparian areas in local responsibility areas. That being said, there is the possibility for uncommon riparian areas on the Central Coast to benefit in terms of riparian functions and values from thinning of such trees.

To accommodate this possibility, the Order's requirements that are applicable to all projects conducting vegetation management and removal have been edited to focus on preservation of vegetative cover, structure, and quality, rather than preservation of trees of a particular size. The edits are consistent with the riparian protection requirements of the CalVTP, which has already been approved by the State Water Resources Control Board. In addition, the Order's requirements for mitigation for removal of native trees has been edited to provide project proponents the option to demonstrate their proposed tree removal will provide benefits to riparian functions and values. Dischargers can do so by comparing proposed riparian conditions with a reference site or by demonstrating proposed riparian conditions will improve the site's RipRAM score.

Santa Cruz Co. RCD - 1

A combination of factors, such as climate change and long-term fire exclusion, have led to increased intensity and scale of wildfires across the state in recent years. It is imperative that landowners and managers have the ability to proactively improve ecosystem resilience, and thus community resilience to wildfire. Fuels reduction activities including mechanical treatments, manual treatments, herbivory, and prescribed fire are integral tools in achieving these goals.

Staff Response to Comment Santa Cruz Co. RCD - 1

Comment noted. One purpose of the Order is to streamline the permitting process, providing a more efficient alternative to obtaining individual waste discharge requirements. Acquiring individual waste discharge requirements is an alternative regulatory approach for projects not covered under this Order and typically involves a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses.

Santa Cruz Co. RCD - 2

Resource Conservation Districts (RCDs) across California serve as local hubs for conservation, connecting people with the technical, financial and educational assistance they need to conserve and manage natural resources. RCDs are special districts established under California law to be locally governed with independent boards of directors that are accountable to our communities. RCDs work to meet a specific community needs such as fire protection, water conservation, sediment reduction, and flood control. RCDs help meet the need for voluntary resource conservation. As trusted stewards of public and private funds, RCDs are subject to transparency and accountability laws that require public meetings, open records,

annual audits and financial reporting. The Resource Conservation district of Santa Cruz County (RCDSCC) has been supporting forest restoration, fuels reduction and community defensible space for decades. Our community chipping program serves hundreds of residents in the wildland-urban interface (WUI) annually. We implement shaded fuel break projects in strategic areas with cooperation from our partners and oversight from our local CalFire Unit, CZU. We also implement projects focused on forest restoration in various habitat types including redwood, oak woodland and sandhills. These projects are focused on fuels reduction as well as restoring the process of disturbance to support native ecosystems. Additionally, we are experienced in supporting our community with flood risk reduction activities).

Staff Response to Comment Santa Cruz Co. RCD - 2

Comment noted.

Santa Cruz Co. RCD - 3

RCDSCC recommends that the Water Board seek consistency of requirements of the Order with those of the California Vegetation Treatment Program (CalVTP) and other existing regulations to ensure water quality protections are met while not increasing barriers to implementation of these important projects.

Staff Response to Comment Santa Cruz Co. RCD - 3

Central Coast Water Board staff reviewed the CalVTP and incorporated management practices where appropriate. For instance, the equipment exclusion and limitation zones, canopy protections, rain event restrictions, and sediment and erosion control measures align closely with CalVTP standards to ensure consistent protection of water quality. The Order has been modified to apply only within local responsibility areas, eliminating overlap with CalVTP-regulated areas. The Order will not interfere with other existing regulations, such as those for defensible space.

Santa Cruz Co. RCD - 4

Additionally, we recommend that the Water Board allow longer comment on this proposed rule and delay its implementation and encourage the Water Board to engage experts to ensure that statements and requirements in the Order are scientifically based, with robust input and review from scientific experts and supported by published research.

Staff Response to Comment Santa Cruz Co. RCD - 4

While Central Coast Water Board staff contacted and/or collaborated with groups such as Cal Fire, resource conservation districts, municipal fire departments, tribes, and prescribed burn associations during development of the Order, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, the Amah Mutsun Tribal Band, the Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

Santa Cruz Co. RCD - 5

Generally speaking, sediment management for flood risk reduction and vegetation management for fire risk reduction are two very different actions. The order does not clearly differentiate what practices are for sediment removal and what practices are for vegetative treatments. In addition, many specific activity requirements outlined in this draft order lack clarity for those who need to

implement them where in most cases, these rules exist in the Forest Practice Rules (FPR's) or CalVTP Standard Project Requirements. Land stewards and contractors need consistency among rule sets to implement appropriately to protect waters of the state. It is recommended that CCRWQCB look closely at where they can utilize and make reference to rules that have already been approved, especially for vegetation management, that are supported or have already been approved by the State Water Board such as the water resource protective measures outline in the FPR's or CalVTP.

Staff Response to Comment Santa Cruz Co. RCD - 5

Fire and flood risk reduction activities both involve vegetation removal and produce similar wastes and concentration of wastes, including sediment, vegetative material, herbicides, bacteria, nutrients, and petroleum products. The Order's requirements are activity-specific rather than purpose-specific, allowing the relevant requirements to be applied based on the nature of the activity. The Order's headings distinguish which requirements apply to which activities. Central Coast Water Board staff reviewed the CalVTP and incorporated management practices where appropriate. For instance, the equipment exclusion and limitation zones, canopy protections, rain event restrictions, and sediment and erosion control measures align closely with CalVTP standards to ensure consistent protection of water quality. The Order has been modified to apply only within local responsibility areas, eliminating overlap with CalVTP-regulated areas. The Order will not interfere with other existing regulations, such as those for defensible space.

Santa Cruz Co. RCD - 6

Page 6 Covered Activities A(3) "CAL FIRE fire risk reduction activities that are California Environmental Quality Act (CEQA) exempt and have been reviewed by CAL FIRE and determined to have no significant environmental impact and no need for mitigation measures to reduce potential environmental impacts to less than significant levels. " It is recommended that fire risk reduction activities that are determined by any eligible lead agency to be CEQA exempt as having no significant environmental impact be defined as non-notifying activities. RCDSCC advises that projects determined to be CEQA exempt by other public agencies such as RCDs, CA State Parks, etc. should also be non-notifying. Current language reads that only CalFire exemptions are non-notifying

Staff Response to Comment Santa Cruz Co. RCD - 6

The Order language has been revised at section II.A.3 and now includes CEQA-exempt fire risk reduction activities reviewed by any CEQA lead agency, not just CAL FIRE.

Santa Cruz Co. RCD - 7

Page 18 (D. Project Timing),(1.) – Recommend changing to a 30% forecast and .20 inch of rain in 24 hours (Predicted Rain Event) to maintain continuity with Cal VTP PSA's for CRLF from USFWS and FPR recommendations for CRLF from USFWS. Although it is species specific to CRLF, it maintains alignment with regulatory requirements that contractors and land stewards already implement consistently. The addition of a slightly increased standard will create unnecessary confusion and inconsistency with other regulatory documents.

Staff Response to Comment Santa Cruz Co. RCD - 7

The prohibition of project activities during predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

Santa Cruz Co. RCD - 8

Page 18 (D. Project Timing),(2.) – Recommend following the operational guidelines in the FPR’s and CalVTP that have been utilized successfully for vegetative treatments and not set a May 1 to November 30th operational window. Suggested language to consider: Equipment operations should be limited on rainfall amounts and time frames for start-up following rain events i.e. .2 inches of rain 24 hour shut down (meshes with USFWS requirements), .2-1.0 inches 48 shutdown, 1-2 inches 72 hour shutdown, no operations on saturated soils, operations may only occur from a stable operating surface, no equipment operations in a watercourse and lake protection zone unless it is from an existing road, etc... Instituting this time frame will create significant cumulative impacts to vegetative treatment operations already constrained by nesting bird season – February 1st – August 15th, specifically Marbled Murrelet - March 23rd - September 1st, CRLF movement period - October 1st to May 1st each year upon a ¼” of rain. Its why the FPR’s and CalVTP PEIR were developed in a manner that allows operations based on conditions rather than dates.

Staff Response to Comment Santa Cruz Co. RCD - 8

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.1 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction. The work window for sediment removal and management project activities has been updated to June 1 to September 30.

Santa Cruz Co. RCD - 9

Page 18 (E. Roads),(1-5) Unclear what part of this order is for sediment removal and what is for vegetative treatments. For example, Item 2. “Equipment shall not be driven through any wetted channel unless to accomplish sediment removal following diversion and dewatering”. This would never be proposed as part of any vegetation removal project and should be clearly defined within the order as pertaining only to sediment removal for flood risk reduction. It is unclear whether an access road or access route is different or the same as an existing road. Recommend defining.

Staff Response to Comment Santa Cruz Co. RCD - 9

Headings within the Order state which requirements apply to all projects, which apply to Category B projects, or if requirements are activity-specific, either for all projects or with additional required measures for Category B projects. General conditions should be interpreted as conditions that apply to all projects and therefore are more general protective measures. The general conditions should be considered if applicable. The condition to not drive equipment through wetted channels applies to both flood risk reduction and fire risk reduction activities but with a necessary exception that applies to some sediment removal activities. Activity-specific conditions are more detailed requirements for specific classes of activities. The term “access roads” in section V.E refers to temporary roads created specifically for project ingress and egress. The language has been modified for clarity.

Santa Cruz Co. RCD - 10

Page 22 (B. Project Delineation) Clearly identify and delineate, by flagging or staking, the boundaries of the project area or invasive species removal areas. Project boundaries and invasive species removal areas are successfully delineated for operations in ARC GIS Field

Maps, or Avenza and should be an accepted method to reduce flagging or staking on the landscape.

Staff Response to Comment Santa Cruz Co. RCD - 10

The flagging or staking serves to delineate project areas onsite so that during project activities, impacts do not occur outside of the permitted area. Permit language has been amended to include the option to use handheld devices or devices in project equipment that enable dischargers to track their location relative to the boundaries of the project area, sensitive resources to be avoided, and the boundaries of any invasive species removal areas.

Santa Cruz Co. RCD - 11

Page 23 (A. Vegetation Removal or Management) – Recommend a clear delineation between what is for sediment removal and what is for vegetation removal – For example, (A. Vegetation Removal or Management)(4.) It is highly unlikely that a vegetation removal project would “work all slash into the soil” in a riparian area or in waters of the state” as part of a vegetation removal project.

Staff Response to Comment Santa Cruz Co. RCD - 11

Requirements in this section apply to vegetation removal or management and do not differentiate between flood or fire risk reduction purposes. If there are requirement for types of activities that are not included in a specific project, then the requirements would not apply to that project. The requirement to work slash into the soil has been removed from the draft Order.

Santa Cruz Co. RCD - 12

Page 24 (C. Prescribed Herbivory) (1-9) – This section references livestock, herbivory, and grazing operations interchangeably. Clarify that this order is specific to vegetation management activities associated with prescribed grazing and herbivory, and not broadly applicable to livestock operations.

Staff Response to Comment Santa Cruz Co. RCD - 12

The Order was modified to provide more consistency and clarity for language related to prescribed herbivory for vegetation removal.

Santa Cruz Co. RCD - 13

Page 42 (E. Invasive Species Treatment Plan) – Would this be required for non-foliar application of herbicide as well? Invasive species are not only increasing fire hazards on the Central Coast but also threaten many unique habitat types that harbor threatened and endangered species. Increasing barriers to implementing invasive species treatment projects will have negative impacts on recovery of special status species in addition to promoting hazardous fuels. Suggestion to advise projects follow California Invasive Plant Council (CalIPC) Best Management Practices (BMPs) which is consistent with the CalVTP: <https://www.cal-ipc.org/resources/library/publications/landmanagers/>

Staff Response to Comment Santa Cruz Co. RCD - 13

The Order has been modified to include invasive plant treatment activities conducted without root disturbance or mechanical removal or management into Category A. As such, an invasive species treatment plan will not be necessary for many invasive species treatment projects. For those projects that do necessitate a plan, a description of CalIPC Best Management Practices

that apply to the specific project would be acceptable to include in the approved invasive species treatment plan, as stated in section X.D.1.c.i of the Invasive Species Treatment Plan requirements. The rest of the requirements, such as identifying species to be removed and any post-treatment maintenance to prevent regrowth are typical for projects permitted by the Water Boards. It is worth noting that this Order regulates projects for the primary purpose of flood or fire risk reduction and certain invasive species treatment projects are more appropriately enrolled in other streamlined Water Boards orders for ecological restoration projects.

Santa Cruz Co. RCD - 14

A final observation regarding the order is that it could significantly impact the feasibility for private landowners to conduct vegetation treatments due to complexity of regulatory compliance across multiple agencies. It is recommended that the CCRWQCB provide an analysis of costs expected for a landowner to follow the requirements of the proposed order, and seek opportunities for consistency with existing regulation.

Staff Response to Comment Santa Cruz Co. RCD - 14

Central Coast Water Board staff expects the cost of complying with the Order for most private landowners to be negligible. Most activities conducted by private landowners will be non-notifying under the Order and allowed to proceed as planned, provided basic protective measures are implemented. Basic protective measures are required regardless of the Order. The Porter-Cologne Water Quality Control Act (California Water Code Div. 7) directs the Central Coast Water Board to regulate discharges of waste to protect the beneficial uses of waters of the state and the Basin Plan prohibits discharge of materials to surface waters of the state in quantities deleterious to fish, wildlife, and other beneficial uses. Activities addressed by the Order that should not experience increased costs to private landowners include prescribed fire, maintenance of defensible space, CEQA exempt activities, small emergency activities, many dead tree and debris removal activities, various invasive plant treatments, limited prescribed herbivory, and activities limited to 0.1 acre or less. In addition, the Order will authorize many activities that would otherwise trigger individual waste discharge requirements, which are much more time intensive regulatory mechanisms, and therefore more costly to project proponents than this Order.

Activities requiring notification and active enrollment are most likely to be large projects conducted by public agencies. For such projects, the application fee is currently \$3,945. As with non-notifying projects, basic measures to protect water quality should be implemented regardless of the Order. As such, the cost of implementing such measures is not wholly attributable to the Order. However, costs will likely be incurred for notifying project planning activities such as project delineation, training, and development of activity-specific plans (e.g., vegetation management or sediment management plans). These activities are expected to cost \$2,000 to \$6,000, with the lower range of the cost estimate representing smaller lower impact projects and the upper range of the cost estimate representing more complex high impact projects. Restoration/mitigation plans are expected to range from \$2,000 to \$12,000 to develop. Implementation of restoration/mitigation, including maintenance, monitoring, and reporting, is expected to cost \$60,000 to \$120,000 per acre. Most restoration/mitigation projects will be much

smaller than an acre. It is important to note that most or all of these costs can be avoided by designing projects to reduce impacts so that the projects are eligible to be non-notifying.

When discussing project proponents' costs of implementing the Order's requirements, it is also important to consider the alternative costs incurred by not implementing the Order's requirements, as well as the benefits that result from Order implementation. Riparian buffers can provide over \$10,000 per acre per year in monetized benefits, with additional non-monetized benefits expected to increase this total.³ Proximity to riparian areas can increase property values by 10 to 27 percent. Waters of the state and riparian areas provide wildlife and fish habitat. Recreation is one aspect of the value of wildlife and fish, with fishing-related expenditures in the United States estimated at more than \$37 billion in 1996. Riparian forests also intercept and absorb sediments, nutrients, and other pollutants. More than \$2 billion is spent annually in the United States for clean water initiatives, indicating the value of clean water.⁴ While it is difficult to fully characterize the monetary benefits of healthy surface waters of the state and riparian areas, it is clear the benefits are significant. The Order serves to preserve these benefits.

Regarding consistency with existing regulations, Central Coast Water Board staff reviewed the CalVTP and incorporated management practices where appropriate. For instance, the equipment exclusion and limitation zones, canopy protections, rain event restrictions, and sediment and erosion control measures align closely with CalVTP standards to ensure consistent protection of water quality. The Order has been modified to apply only within local responsibility areas, eliminating overlap with CalVTP-regulated areas. The Order will also not interfere with other existing regulations, such as those for defensible space.

Santa Cruz Co. RCD - 15

Compensatory planting of trees should not be required if site meets stocking standards following treatment. Overstocking of trees in many forest types from fire suppression is contributing to environmental degradation and increasing wildfire hazards.

Staff Response to Comment Santa Cruz Co. RCD - 15

The Order regulates activities conducted in surface waters of the state and riparian areas only, and trees serve distinct ecological functions in riparian habitat compared to upland forests. The Order allows offsite tree replacement. This allows for consideration of stocking standards and recommendations from a qualified forester. In addition, the Order provides project proponents the option of proposing alternative mitigation approaches if overstocking is a concern. Stocking standards apply to commercial tree species following timber harvesting to ensure future commercial timber viability. Since most riparian tree species are not commercial and timber harvesting is substantially restricted within surface waters and riparian areas, stocking standards are not directly applicable to work regulated by the Order.

Farm Bureau - 1

³ ECONorthwest. 2018. The Economic Value of Riparian Buffers in the Delaware River Basin. Prepared for: Delaware Riverkeeper Network.

⁴ Jones, Greg. 2008. Social and economic value of riparian environments. In: Finch, Deborah M. Rocky Mountain Riparian Digest. Rocky Mountain Riparian Digest. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station.

Impacts from wildfires in Monterey County, including three large fires in 2020, demonstrate the need for flexible and workable regulations supporting prescribed fire as a tool in reducing fuel load in rangeland and forested areas of the Central Coast region.

Staff Response to Comment Farm Bureau - 1

Comment noted, and we concur. One purpose of the Order is to streamline the permitting process, providing a more efficient alternative to obtaining individual waste discharge requirements. Acquiring individual waste discharge requirements is an alternative regulatory approach for projects not covered under this Order and typically involves a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses.

Farm Bureau - 2

Landowners have a right to burn, under state law, without a burn plan in CalFire units that have an open burn season (B units); it is not within the Regional Water Board's jurisdiction to regulate this right and the conflict with state law needs to be removed in section "B. Prescribed Fire Plan. 1."

Staff Response to Comment Farm Bureau - 2

The requirement to submit a prescribed fire plan has been removed from sections VIII.B.1 and X.B.

Farm Bureau - 3

In section "B. Prescribed Fire Plan. 2. c." modify language to exclude grassland and shrubland, which are adapted to high intensity fire.

Staff Response to Comment Farm Bureau - 3

Section B. Prescribed Fire Plan has been removed from the Order. Additionally, this Order does not regulate activities or discharges occurring outside surface waters of the state or riparian areas, so upland areas are excluded from draft Order conditions related to vegetation management. This has been clarified in footnote 3 of the Order.

Richman - 1

A combination of factors, such as climate change and long-term fire exclusion, have led to increased intensity and scale of wildfires across the state in recent years. It is imperative that landowners and managers have the ability to proactively improve ecosystem resilience, and thus community resilience to wildfire. Prescribed fire is an integral tool in achieving these goals.

Staff Response to Comment Richman - 1

Comment noted. One purpose of the Order is to streamline the permitting process, providing a more efficient alternative to obtaining individual waste discharge requirements. Acquiring individual waste discharge requirements is an alternative regulatory approach for projects not covered under this Order and typically involves a more extensive and time-consuming process for both Central Coast Water Board staff and dischargers. The standardized approach of the Order supports increased pace and scale of fire risk reduction activities while still maintaining the necessary protection of water quality and beneficial uses.

Richman - 2

Furthermore, Native peoples of California have, since time immemorial, used cultural fires to maintain riparian areas for travel, hunting, and gathering. Cultural fire was and continues to be used by California Tribes to create disturbance to improve fiber condition in riparian species. For example, Lake (2007) documented Karuk basketweavers' practice of augmenting flood disturbance to willows and other basketry plants with cultural application of fire. Other tribes used fire to achieve similar objectives in aquatic, forest, and grassland environments (e.g. Long et al. 2021).

Staff Response to Comment Richman - 2

Comment noted.

Richman - 3

*Many watercourses in CA have suffered from the exclusion of cultural burning and herbivory by beavers, resulting in large, senescent willow (*Salix* species) and alder (*Alnus rubra*) compared to pre-contact reference conditions. In addition to reducing the availability of cultural resources, this reduced coppicing of riparian trees and shrubs may decrease aquatic habitat quality. In some areas in the coastal fog belt, this closed canopy results in temperatures that are too cold for optimal salmonid rearing (e.g. Woelfle-Erskine et al. 2017) and also decreases primary productivity. Dense riparian vegetation also decrease streamflow via the riparian pump effect, where increased transpiration from riparian forests decreases streamflow and accelerates stream drying. Reducing tree density through thinning or beneficial fire may delay stream drying, improving aquatic habitat conditions. While beneficial fire is not a panacea for these issues, it is an important tool which needs nuance and context to be sited appropriately. In their current form, the proposed rules, specifically the recommendation to retain all trees greater than 4" DBH and to not reduce canopy cover in riparian forests are not supported by ecological science in the central coast region.*

Staff Response to Comment Richman - 3

The requirements of the Order are intended to maintain the functions and beneficial uses of surface waters of the state and riparian areas as identified by the Central Coast Riparian Rapid Assessment Method (RipRAM). RipRAM is a USEPA-funded, Central Coast-specific methodology developed in a joint effort by the Central Coast Wetlands Group, the Southern California Coastal Water Research Project, the San Francisco Estuary Institute, and others. The method is tailored to Central Coast conditions and was validated at Central Coast locations. The metrics RipRAM uses to indicate ecological functions and benefits, and which the Order seeks to maintain, include total riparian cover, vegetation cover structure, vegetation cover quality, age diversity and natural regeneration, riparian vegetation width, riparian soil condition and permeability, macroinvertebrate habitat patch richness, and anthropogenic alterations to channel morphology. The California Rapid Assessment Method (CRAM) also includes metrics for surface waters of the state habitat health similar to those used by RipRAM. CRAM is applied to streams and areas immediately adjacent to streams. The Order also aims to preserve stream health in accordance with CRAM metrics.

Native trees with 4-inch dbh or greater and native tree canopy are components of the following RipRAM metrics: total riparian cover, vegetation cover structure, vegetation cover quality, and age diversity and natural regeneration. Native trees with 4-inch dbh or greater and native tree canopy increase total riparian cover, contribute positively to vegetation structure, improve vegetation cover quality by providing native species and creating gallery structure, and exhibit vegetation community age diversity and natural regeneration. Considering the functions and values provided by native trees with 4-inch dbh or greater and native tree canopy, it is important to minimize removal of such trees for the majority of riparian areas in local responsibility areas. That being said, there is the possibility for uncommon riparian areas on the Central Coast to benefit in terms of riparian functions and values from thinning of such trees.

To accommodate this possibility, the Order's requirements that are applicable to all projects conducting vegetation management and removal have been edited to focus on preservation of vegetative cover, structure, and quality, rather than preservation of trees of a particular size. The edits are consistent with the riparian protection requirements of the CalVTP, which has already been approved by the State Water Resources Control Board. In addition, the Order's requirements for mitigation for removal of native trees has been edited to provide project proponents the option to demonstrate their proposed tree removal will provide benefits to riparian functions and values. Dischargers can do so by comparing proposed riparian conditions with a reference site or by demonstrating proposed riparian conditions will improve the site's RipRAM score.

It is worth noting that the study cited in the comment (Woelfle-Erskine et al. 2017) as supporting greater riparian tree removal was conducted outside the central coast region, in the Salmon Creek watershed of Sonoma County. The authors of the study conclude that their findings regarding negative impacts of cold water temperatures on steelhead likely don't apply in areas such as the central coast region, stating: "In less shaded regions or in drier intermittent streams (e.g., those further to the south), increases in temperature may more immediately promote steelhead mortality."

Richman - 4

The vast majority of the literature addressing postfire erosion is specifically related to large wildfire events, many of these being uncharacteristically high severity wildfires. Of the sources we found that address the effects of prescribed fire on erosion specifically, the documented erosive effects overall were nil to minimal where any necessary recovery was swift and complete (Beche et al., 2005; Arkle & Pilliod 2010; Pilliod & Arkle, 2012; Bixby et al., 2015; Klimas et al. 2020; Beyenne et al. 2023). Please note, full references are provided on page 4.

Staff Response to Comment Richman - 4

Comment noted. Conditions for erosion and sediment control that apply to prescribed fire projects only address activities that disturb soil, such as grading of control lines within surface waters of the state and riparian areas. Such areas can be an ongoing source of erosion and sediment, especially in sloped areas. Erosion and sediment control measures are straightforward and justified in such cases.

Richman - 5

It is our recommendation that the Water Board delay the implementation of this rule until a solid scientific basis concerning prescribed fire can be established. The scientific basis for these

decisions is based on the CA Forest Practice Rules, however, the Forest Practice Rules currently have very little information on prescribed burning. The University of California Agriculture and Natural Resources, California Fire Science Consortium and other fire professionals are willing to help with that process.

Staff Response to Comment Richman - 5

While Central Coast Water Board staff contacted and/or collaborated with groups such as Cal Fire, resource conservation districts, municipal fire departments, tribes, and prescribed burn associations during development of the Order, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff has already held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, and the Amah Mutsun Tribal Band. Central Coast Water Board staff will hold further ongoing discussions with the Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

Richman - 6

Clarify Section "VII. Activity Specific Conditions for All Projects. A. Vegetation Removal or Management. 1. Retain native trees and shrubs with a diameter of four inches or more at breast height to the maximum extent practicable. Trees that require removal shall be felled away from adjacent streams or waterbodies and piled outside of the riparian area, unless being retained to provide wildlife habitat." In some cases reducing canopy cover or stem density can be beneficial to aquatic habitat conditions. Suggest incorporating process-based language such as, retain a mix of trees, shrubs, grasses, and forbs that will contribute to aquatic habitat quality (flow, T, nutrient filtering).

Staff Response to Comment Richman - 6

The requirements of the Order are intended to maintain the functions and beneficial uses of surface waters of the state and riparian areas as identified by the Central Coast Riparian Rapid Assessment Method (RipRAM). RipRAM is a USEPA-funded, Central Coast-specific methodology developed in a joint effort by the Central Coast Wetlands Group, the Southern California Coastal Water Research Project, the San Francisco Estuary Institute, and others. The method is tailored to Central Coast conditions and was validated at Central Coast locations. The metrics RipRAM uses to indicate ecological functions and benefits, and which the Order seeks to maintain, include total riparian cover, vegetation cover structure, vegetation cover quality, age diversity and natural regeneration, riparian vegetation width, riparian soil condition and permeability, macroinvertebrate habitat patch richness, and anthropogenic alterations to channel morphology. The California Rapid Assessment Method (CRAM) also includes metrics for surface waters of the state habitat health similar to those used by RipRAM. CRAM is applied to streams and areas immediately adjacent to streams. The Order also aims to preserve stream health in accordance with CRAM metrics.

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That being said, there is the possibility for uncommon riparian areas on the Central Coast to benefit in terms of riparian functions and values from thinning of such trees.

To accommodate this possibility, the Order's requirements that are applicable to all projects conducting vegetation management and removal have been edited to focus on preservation of vegetative cover, structure, and quality, rather than preservation of trees of a particular size. The edits are consistent with the riparian protection requirements of the CalVTP, which has already been approved by the State Water Resources Control Board. In addition, the Order's requirements for mitigation for removal of native trees has been edited to provide dischargers the option to demonstrate their proposed tree removal will provide benefits to riparian functions and values. Dischargers can do so by comparing proposed riparian conditions with a reference site or by demonstrating proposed riparian conditions will improve the site's RipRAM score.

Richman - 7

Compensatory planting of trees should not be required if site meets stocking standards following treatment. Overstocking of trees in many forest types from fire suppression is contributing to environmental degradation and increasing wildfire hazards.

Staff Response to Comment Richman - 7

This Order regulates activities conducted in surface waters of the state and riparian areas only, and trees serve distinct ecological functions in riparian habitat compared to upland forests. The Order permits offsite tree replacement. This allows for consideration of stocking standards and recommendations from a qualified forester. In addition, the Order provides dischargers the option of proposing alternative mitigation approaches if overstocking is a concern. Stocking standards apply to commercial tree species following timber harvesting to ensure future commercial timber viability. Since most riparian tree species are not commercial and timber harvesting is substantially restricted within surface waters and riparian areas, stocking standards are not directly applicable to work regulated by the Order.

Richman - 8

Remove requirement of an invasive species treatment plan (p.42) for activities like cut-stump treatment. Increasing barriers to implementing invasive species treatment projects will have negative impacts on recovery of special status species in addition to promoting hazardous fuels. Suggestion to advise projects follow California Invasive Plant Council (CalIPC) Best Management Practices (BMPs) which is consistent with the CalVTP: <https://www.cal-ipc.org/resources/library/publications/landmanagers/> as opposed to an individual weed management plan.

Staff Response to Comment Richman - 8

The Order has been modified to include invasive plant treatment activities conducted without root disturbance or mechanical removal or management into Category A. As such, an invasive species treatment plan will not be necessary for many invasive species treatment projects. For those projects that do necessitate a plan, a description of CalIPC Best Management Practices that apply to the specific project would be acceptable to include in the approved invasive species treatment plan, as stated in section X.D.1.c.i of the Invasive Species Treatment Plan requirements. The rest of the requirements, such as identifying species to be removed and any post-treatment maintenance to prevent regrowth are typical for projects permitted by the Water Boards.

Richman - 9

A final observation regarding the order is that it could significantly impact the feasibility for private landowners to conduct vegetation treatments due to complexity of regulatory compliance across multiple agencies. It is recommended that the CCRWQCB provide an analysis of costs expected for a landowner to follow the requirements of the proposed order, and seek opportunities for consistency with existing regulation.

Staff Response to Comment Richman - 9

Central Coast Water Board staff expects the cost of complying with the Order for most private landowners to be negligible. Most activities conducted by private landowners will be non-notifying under the Order and allowed to proceed as planned, provided basic protective measures are implemented. Basic protective measures are required regardless of the Order. The Porter-Cologne Water Quality Control Act (California Water Code Div. 7) directs the Central Coast Water Board to regulate discharges of waste to protect the beneficial uses of waters of the state and the Basin Plan prohibits discharge of material to surface waters of the state in quantities deleterious to fish, wildlife, and other beneficial uses. Activities addressed by the Order that should not experience increased costs to private landowners include prescribed fire, maintenance of defensible space, CEQA exempt activities, small emergency activities, many dead tree and debris removal activities, various invasive plant treatments, limited prescribed herbivory, and activities limited to 0.1 acre or less. In addition, the Order will authorize many activities that would otherwise trigger individual waste discharge requirements, which are much more time intensive regulatory mechanisms, and therefore more costly to dischargers than this Order.

Activities requiring notification and active enrollment are most likely to be large projects conducted by public agencies. For such projects, the application fee is currently \$3,945. As with non-notifying projects, basic measures to protect water quality should be implemented regardless of the Order. As such, the cost of implementing such measures is not wholly attributable to the Order. However, costs will likely be incurred for notifying project planning activities such as project delineation, training, and development of activity-specific plans (e.g., vegetation management or sediment management plans). These activities are expected to cost \$2,000 to \$6,000, with the lower range of the cost estimate representing smaller lower impact projects and the upper range of the cost estimate representing more complex high impact projects. Restoration/mitigation plans are expected to range from \$2,000 to \$12,000 to develop. Implementation of restoration/mitigation, including maintenance, monitoring, and reporting, is expected to cost \$60,000 to \$120,000 per acre. Most restoration/mitigation projects will be much smaller than an acre. It is important to note that most or all of these costs can be avoided by designing projects to reduce impacts so that the projects are eligible to be non-notifying.

When discussing dischargers' costs of implementing the Order's requirements, it is also important to consider the alternative costs incurred by not implementing the Order's requirements, as well as the benefits that result from Order implementation. Riparian buffers can provide over \$10,000 per acre per year in monetized benefits, with additional non-monetized benefits expected to increase this total.⁵ Proximity to riparian areas can increase property values by 10 to 27 percent. Waters of the state and riparian areas provide wildlife and fish habitat. Recreation is one aspect of the value of wildlife and fish, with fishing-related expenditures in the United States estimated at more than \$37 billion in 1996. Riparian forests

⁵ ECONorthwest. 2018. The Economic Value of Riparian Buffers in the Delaware River Basin. Prepared for: Delaware Riverkeeper Network.

also intercept and absorb sediments, nutrients, and other pollutants. More than \$2 billion is spent annually in the United States for clean water initiatives, indicating the value of clean water.⁶ While it is difficult to fully characterize the monetary benefits of healthy surface waters of the state and riparian areas, it is clear the benefits are significant. The Order serves to preserve these benefits.

Regarding consistency with existing regulations, Central Coast Water Board staff reviewed the CalVTP and incorporated management practices where appropriate. For instance, the equipment exclusion and limitation zones, canopy protection, rain event restrictions, and sediment and erosion control measures align closely with CalVTP standards to ensure consistent protection of water quality. The Order has been modified to apply only within local responsibility areas, eliminating overlap with CalVTP-regulated areas. The Order will also not interfere with other existing regulations, such as those for defensible space.

Holl - 1

I understand that the Central Coast Regional Water Quality Control Board is charged with maintaining water quality for Californians living along the central coast. However, as noted in the draft document, the large-scale wildfires that are becoming increasingly common in California pose extensive risks to water quality due to erosion of sediments, nutrients, and toxic chemicals. Therefore, various management strategies, including controlled burns and grazing, are critical to minimize the risk of catastrophic wildfire. The stated goal of the document is: "to support the increased pace and scale of vegetation treatment from baseline levels toward the goals listed in the Governor Executive Orders", when in fact the highly detailed and prescriptive nature of the document are likely to create bureaucratic hurdles to using prescribed fire and other vegetation management strategies and thereby increase the risk of large wildfires, counter to the stated goal.

Staff Response to Comment Holl – 1

Central Coast Water Board staff acknowledges the importance of prescribed burns and grazing in reducing wildfire risks. We expect only a small number of fire risk reduction projects to fall under Category B (notifying). Most prescribed burn activities will be classified as Category A (non-notifying), as long as basic best management practices are followed. Additionally, the Order's scope has been limited to apply only to local responsibility areas, further reducing the number of projects that fall under Category B. Primarily, large municipal projects that involve clearing substantial areas of surface waters and riparian vegetation will be in Category B, and such projects have been rare in this region—typically just one or two annually. By streamlining the permitting process through this Order, the resource-intensive process of obtaining individual waste discharge requirements can be avoided, thereby supporting the increased pace and scale of fire risk reduction activities as outlined in the Governor's Executive Orders.

Holl - 2

Much of the research to date on prescribed burning suggests that prescribed burning has minimal long-term effects on erosion and water quality. And there are currently many research projects underway to help clarify the effects of prescribed fires on various ecosystem types in California. I am writing to ask the Water Board to delay the implementation of this rule until it is

⁶ Jones, Greg. 2008. Social and economic value of riparian environments. In: Finch, Deborah M. Rocky Mountain Riparian Digest. Rocky Mountain Riparian Digest. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station.

rewritten based on more solid scientific grounding. The University of California Agriculture and Natural Resources, California Fire Science Consortium and other fire professionals have been compiling relevant resources and are willing to help in advising to develop a more scientifically-based rule.

Staff Response to Comment Holl - 2

While Central Coast Water Board staff contacted and/or collaborated with groups such as CAL FIRE, resource conservation districts, municipal fire departments, tribes, and prescribed burn associations during development of the Order, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, the Amah Mutsun Tribal Band, Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

Holl - 3

This document seems to be largely written about forest management, given the frequent references to tree canopy and removal. Fire typically burn cooler and run less risk of spreading in grassland ecosystems. Managing grasslands can help reduce the risk of fire spread into the forest. The guidelines should be more tailored to specific ecosystem types, rather than making "one size fits all" recommendations. For example, the document states "Category B low tier project activities...shall not be repeated more than once within five years..." whereas native Americans commonly burned grasslands every 2-4 years so that is the burn interval with which those ecosystems have adapted. Moreover, grassland quickly regrow a ground cover the minimizes erosions. In addition, there are many restrictions on canopy removal that are irrelevant for grasslands and shrublands.

Staff Response to Comment Holl - 3

References to tree and canopy removal pertain to activities conducted in riparian areas. This Order does not regulate activities or discharges occurring outside surface waters of the state or riparian areas, such as grasslands and shrublands. This has been clarified in footnote 3 of the Order. Limitations on frequency of management activities are related to tiering criteria. More frequent activities can be authorized, but they will not be eligible to enroll as low tier projects. However, prescribed burns will be Category A projects provided minimal protective measures are implemented, so frequency limitations and tiering do not apply.

Holl - 4

The document limits the window for sediment removal and management project activities in waters of the state and riparian areas from June 1 to September 30. Does this include all vegetation management activities? This seems like a quite narrow window for prescribed burns? Often CA State Parks waits until after the first rains to minimize spread. But the rainy season typically doesn't start until September, October, or even November. Given the variability in timing of the onset and intensity of rains, restricting to specific dates is not well justified. Rather the restrictions should be based on climatic and physical conditions in a given year at a specific site.

Staff Response to Comment Holl - 4

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.1 has been revised to allow year-round vegetation

management and removal activities for fire risk reduction. The work window for sediment removal and management project activities has been updated to June 1 to September 30 in section V.D.2.

Holl - 5

I am also highly concerned that this order will impede the ability of my lab and many others to conduct the research on wildfires that is needed to develop better managements plans and guidelines. My research team has already conducted three pre- (fall 2023) and post-(spring 2024) burns grassland surveys. In spring, we surveyed an additional 13 sites that are slated to burn in fall 2024, along with paired control sites that are not scheduled for burning. Then we will monitor the effects of the burn on soil carbon loss and native and exotic seed banks immediately after the fire, as well as on plant communities in spring 2024. This is exactly the type of research that is needed to inform fire guidelines, but if the rule is implemented it will reduce our management collaborators' ability to conduct the burns.

Staff Response to Comment Holl - 5

This Order does not regulate activities or discharges occurring outside surface waters of the state or riparian areas, such as grasslands and shrublands. Prescribed fire is a Category A non-notifying activity that can proceed without enrollment provided basic water quality protective measures are implemented. In addition, prescribed fire conducted for research purposes is outside the scope of activities regulated by this Order, since the Order only applies to activities with the primary purpose of fire risk reduction.

Roybal - 1

In addition to the sources cited later, I wanted to share a personal perspective: My son, who passed away in April, was a wildland firefighter with a dream to operate a ranch in the Central Coast. In many of the fires to which he was assigned, he observed that the unintended consequences of trying to "protect" habitat by limiting management of it was a primary factor of the rapid spread and intensity. In addition, he saw resource agencies disregard the experience and wisdom of those who were intimately knowledgeable about the land in which they lived. He wondered why agencies were not willing to seek out all voices and perspectives to proactively improve ecosystem resilience, and thus community resilience, to wildfire. The prescribed burn associations in California are a great example of how this can happen: They leverage the experience and knowledge of a range of stakeholders—residents, farmers and ranchers, indigenous groups, firefighters, land managers, scientists, and more--to adopt practices that enhance ecosystems. Rather than a top-down imposition of rules, members collaborate to implement use of fire as one tool in resource management. The water board would be wise to listen to these stakeholders as it looks to establish guidelines for the use of prescribed fire.

Staff Response to Comment Roybal - 1

Thank you for sharing your perspective and your son's experience, as well as emphasizing the value of collaboration and local expertise in wildfire resilience. Central Coast Water Board staff reached out to the CCPBA on May 3, 2023, by emailing four members to gather information on their fire risk reduction activities and to invite their input on the Order. Additionally, Central Coast Water Board staff followed up with this request in-person with the CCPBA Program Manager at the California Chaparral Symposium on May 7, 2023. Unfortunately, we did not receive a response, and as a result, we were unable to coordinate further with the group prior to the release of the Order. However, Central Coast Water Board staff held a discussion on Order

revisions with members of the Central Coast Prescribed Burn Association on November 1, 2024.

Grace - 1

Climate change and fire exclusion efforts have led to increased wildfire intensity and occurrence in California. Prescribed fires are being more broadly implemented by government agencies like CAL FIRE, who has expanded its fuels reduction and prescribed fire programs to treat up to 100,000 acres by 2025 (California's Wildfire and Forest Resilience Action Plan, 2021). These prescribed fires help manage vegetation quickly and effectively as well as contribute to the overall health of forests. This in turn helps protect our public lands from the effects of catastrophic wildfires.

Staff Response to Comment Grace - 1
Comment noted.

Grace - 2

Private landowners should, with an appropriate burn permit and air quality permit, have the right to manage their lands with prescribed fire as well. Although prescribed fires have recently been more broadly accepted by the public, many landowners are already frustrated with the bureaucratic process that must be taken before burning. Adding more hindrances to this process will only further discourage private landowners from using prescribed fire as a management tool.

Staff Response to Comment Grace - 2
Central Coast Water Board staff acknowledges the importance of prescribed fire. Prescribed fires are Category A (non-notifying) projects, provided basic protective measures are followed. In addition, the Order only applies to prescribed fires in surface waters of the state and riparian areas.

Grace - 3

As of July 13, 228,756 acres have been burned by wildfires around the state in just this year. California is seeing more and more frequent early fire seasons in part due to increased temperatures and untreated fuels. In order to prepare for these intense wildfires, it is imperative that private landowners have access to burning on their land so that they may take after the actions of CAL FIRE and aid California in fuels reduction. Adding more barriers to this already discouraging process is not the answer.

Staff Response to Comment Grace - 3
Comment noted.

Grace - 4

The vast majority of the literature addressing postfire erosion is specifically related to large wildfire events, many of these being uncharacteristically high severity wildfires. Of the sources we found that address the effects of prescribed fire on erosion specifically, the documented erosive effects overall were nil to minimal where any necessary recovery was swift and complete (Beche et al., 2005; Arkle & Pilliod 2010; Pilliod & Arkle, 2012; Bixby et al., 2015; Klimas et al. 2020; Beyenne et al. 2023). Please note, full references are provided on page 4.

Staff Response to Comment Grace - 4

Conditions for erosion and sediment control that apply to prescribed fire projects only address activities that disturb soil, such as grading of control lines within surface waters of the state and riparian areas. Such areas can become ongoing sources of erosion and sediment, especially in sloped areas. Erosion and sediment control measures are straightforward and justified in such cases.

WRTC - 1

As you acknowledge in your draft, vegetation management for the purposes of wildfire risk and hazard reduction are increasing across the central coast (and all of CA). As an statewide organization supporting training and capacity building for expanding prescribed fire as a tool for its many benefits, including in the Central Coast Region, we believe that your proposed regulatory framework for prescribed fire activities are in excess of those necessary to protect beneficial uses of water resources, exceeding standards supported by best available science. They would represent an undue burden on landowners, project planners, and land managers resulting increasing public and private costs, protracted timelines, decreased treatment effectiveness, and all to obtain negligible-to-nil benefits to water resources.

Staff Response to Comment WRTC - 1

Prescribed fire is a non-notifying activity, provided basic minimum protective measures are implemented. As such, prescribed fire should not be significantly impacted by the Order and the Order should not place an undue burden on prescribed fire activities.

WRTC - 2

As one example of the gap in your use of best available science, the vast majority of the literature addressing postfire erosion is specifically related to large wildfire events, many of these being uncharacteristically high severity wildfires. Of the sources we find that address the effects of prescribed fire on erosion specifically, the documented erosive effects overall were nil to minimal where any necessary recovery was swift and complete (Beche et al., 2005; Arkle & Pilliod 2010; Pilliod & Arkle, 2012; Bixby et al., 2015; Klimas et al. 2020; Beyenne et al. 2023). Please note, full references are provided on page 2 and 3.

Staff Response to Comment WRTC - 2

Conditions for erosion and sediment control that apply to prescribed fire projects only address activities that disturb soil, such as grading of control lines within surface waters of the state and riparian areas. Such areas can become ongoing sources of erosion and sediment, especially in sloped areas. Erosion and sediment control measures are straightforward and justified in such cases.

Palkovic - 1

1. California State Parks is actively developing and implementing large, landscape-scale projects in response to the Executive Orders and Action Plan mentioned under III.A.3 in the Draft Order. We request that these State Parks activities be exempted under 1.A.2. due to the rigorous process State Parks already conducts as a land management agency and CEQA lead agency:

- Several sections of the Draft Order exempt CalFIRE activities. Like CalFIRE, State Parks has processes in place that already consider and address water quality protections when designing project work.*

- *Per CEQA Guidelines and State Parks policy, State Parks is the CEQA lead agency for projects conducted on State Park land. By policy, State Parks projects are designed to minimize impacts to all resources, including water quality, to the greatest extent possible.*
- *The provisions of the Z'berg-Nejedly Forest Practice Act (PRC Section 4511 et. Seq), exempts land managed by State Parks provided operations have undergone CEQA evaluation pursuant to PRC Div 13 commencing with Sec 2100. Thus, the Forest Practice Act acknowledges State Park's autonomy, and ability, to manage the public resources within our authority and mission.*

Staff Response to Comment Palkovic - 1

The Order's scope has been reduced to cover only local responsibility areas, significantly reducing the number of State Parks projects that will require enrollment. The Order is designed to regulate activities based on impact to waters of the state and riparian areas, not by the agency conducting them; reference to CAL FIRE's Chaparral Management Program was removed to avoid implying agency-specific notification criteria. Additionally, the Order has been updated in section II.A.3 to categorize CEQA-exempt fire risk reduction activities overseen by any CEQA lead agency, not just CAL FIRE, as non-notifying. Prescribed fire projects conducted by any agency, when implemented with basic protective measures, are also non-notifying. The Z'berg-Nejedly Forest Practice Act primarily applies to timber harvest operations, while the Order addresses vegetation removal specifically for fire risk reduction.

Palkovic - 2

2. Clarification is needed regarding equipment exclusions for covered activities. Define "equipment." All equipment should not be excluded from use in Class I and Class II watercourses. Tracked chippers and similar equipment can be useful and in some cases result in less damage than manual methods of removing material.

Staff Response to Comment Palkovic - 2

Equipment exclusion zones in the Order are specific to non-notifying prescribed fire activities and are not a blanket restriction on all equipment in Class I and Class II watercourses. Definitions have been added for "heavy equipment" and "equipment exclusion zone" in the glossary in Attachment C.

Palkovic - 3

3. The project timing condition (V.D.2) could concentrate work and use of heavy equipment during the migratory bird breeding season and during the peak fire season when State fire crews and resources are committed to wildfire suppression activities and resources are limited. Project timing should allow flexibility outside of this June to September window based on other factors, including BMPs, weather, and local conditions.

Staff Response to Comment Palkovic - 3

Central Coast Water Board staff recognizes that restricting fuel reduction projects to specific time frames may not be practical and could hinder the pace and scale of necessary fire risk reduction activities. Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction. The prohibition of project activities for predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

Palkovic - 4

4. Category B low tier project activities, which could include prescribed burning, would only be permitted as one-time activities that shall not be repeated more than once within 5 years. It may be ecologically beneficial to burn grasslands more frequently than this, therefore grassland burning should be excluded from this project condition.

Staff Response to Comment Palkovic - 4

Prescribed fires are Category A projects, provided basic protective measures are followed, so this requirement should not apply to prescribed fires. In addition, the Order only applies to prescribed fires in surface waters of the state and riparian areas. The words "one-time" have been removed to allow vegetation removal activities to be repeated on an annual basis, as needed.

Palkovic - 5

State Parks' Monterey District would be happy to continue discussions with Central Coast Regional Water Quality Control Board regarding this Draft Order and State Parks management, to better explain the processes already in place in State Parks and to further discuss additional elements within the Draft Order such as:

- *Reduction in size of prescribed burns, which is contrary to the Executive Order, Action Plans, and other scientific studies.*
- *Defining riparian habitat in a more concise manner.*
- *The requirement of compensatory mitigation for projects developed to mitigate hazards and improve ecological conditions.*
- *Size thresholds for non-reporting activities.*

Staff Response to Comment Palkovic - 5

The Order does not require a reduction in the size of prescribed burns. It requires the minimum work necessary to achieve project goals. Requirements to use several smaller burns, rather than single large burns, have been removed from the Order.

The definition of riparian areas has been edited to provide additional clarification. Central Coast Water Board staff will provide guidance figures to assist with identification of riparian areas.

The Order allows many fire and flood risk reduction activities, including all Category A projects, to proceed without mitigation. Examples include prescribed fire, defensible space activities, invasive plant removal, prescribed herbivory, and certain types of debris removal and vegetation management. Mitigation is required only for medium and high-tier Category B projects with the potential to significantly impact beneficial uses of surface waters, such as mature native tree removal, permanent road construction, and wetland disturbance. Section IX.A Temporary Impacts Restoration has been updated to more accurately describe the expected post-project conditions for areas temporarily impacted. In addition, the Order allows applicants to propose alternative mitigation approaches to tree replacement. It has also been modified to allow applicants to demonstrate improved functions and benefits of treated areas in lieu of mitigation.

Category A (non-notifying) projects have been expanded to include certain types of dead tree or debris removal, invasive plant treatment, prescribed herbivory, and trimming, limbing, and weed

whipping of vegetation. The scope of the permit has been reduced to local responsibility areas, significantly reducing the number of projects subject to enrollment in this Order.

SLO Co. PWD - 1

There are several terms and phrases used throughout the Draft Order that are undefined or described without reference to the California Water Code. Definitions, with references to the California Water Code, should be included in the Draft Order.

COUNTY RECOMMENDATION: Provide definitions with references to the California Water Code for terms and phrases used to regulate project activities: Flood risk reduction, Native Tree Canopy, Vegetation Removal, Prescribed Herbivory, Sediment Removal, Riparian Areas, Pre-existing Condition(s), Probable Future Projects, etc.

Staff Response to Comment SLO Co. PWD - 1

The glossary in the Draft Order has been expanded to include definitions for terms identified by Central Coast Water Board staff as needing clarification. For terms not included in the glossary, these are either common terms used consistent with their common definitions or are further explained contextually within the Order. The term “pre-existing conditions” no longer appears in the Order.

SLO Co. PWD - 2

In general, the Draft Order fluctuates between requirements for flood control activities and fire prevention activities in a manner that is difficult to understand. For example, Section X.A.1.k.iv and X.D.2.b discuss defensible space around structures, which is not an accepted practice for mitigating flood hazards.

COUNTY RECOMMENDATION: Separate the Draft Order into separate sections for Flood Control Activities and Fire Risk Reduction Activities.

Staff Response to Comment SLO Co. PWD - 2

The Order’s requirements are activity-specific rather than purpose-specific, allowing the relevant requirements to be applied based on the nature of the activity. The Order’s headings distinguish which requirements apply to which activities.

SLO Co. PWD - 3

The language describing classes and categories in the Draft Order is cumbersome, including Category, Class and Tier. These should be replaced with descriptive, rather than categorical, terms.

COUNTY RECOMMENDATION: Remove “Category” in favor of more descriptive, common terms such as “Exempt” and “Permitted”, or ‘Regulated’ and “Un-regulated”.

Staff Response to Comment SLO Co. PWD - 3

The terms "category," "class," and "tier" are used in the Order to organize and differentiate project types and their requirements and are consistent with how similar requirements are structured in other orders. There are two categories: A and B. Category B is further distinguished by three tiers. This totals four possible project types, which is not cumbersome. The term “class” applies to stream types and does not apply to project types. Replacing these

terms with terms like "exempt" or "permitted" would not accurately reflect the enrollment requirements or levels of review.

SLO Co. PWD - 4

This Draft Order appears to conflict with the State Water Board General Order for the Corps' Nationwide Permits (Order No. WQ 2021-0048-DWQ). The Central Coast Water Board needs to clarify how this Draft Order would work alongside this.

COUNTY RECOMMENDATION: Provide details of how this proposed Order will work alongside WQ 2021-0048-DWQ.

Staff Response to Comment SLO Co. PWD - 4

Section I.A of the Order clarifies that the Order does not apply to projects subject to Clean Water Act section 401 water quality certifications, such as Order No. WQ 2021-0048-DWQ. If a project is subject to Order No. WQ 2021-0048-DWQ, then the project would only enroll under that order. Since both Orders will not apply to the same projects, they are not in conflict with one another. It is worth noting that Order No. WQ 2021-0048-DWQ only applies to very small projects and most fire and flood risk reduction activities addressed by the Order would not qualify for enrollment in Order No. WQ 2021-0048-DWQ.

SLO Co. PWD - 5

In general, the thresholds for permitting provided in the Draft Order are unreasonably low. The County encourages an overall widening of these thresholds to relieve staff and administrative burden for completing annual, routine projects. Specifically, Category A vegetative removal only projects could be exempt from side slope and area requirements as these are hand-tool only, no sediment removal, etc. projects that take place to remove deposited dead and down debris.

COUNTY RECOMMENDATION: Increase the thresholds for Category B low, medium and high tier activities. Consider significantly increasing thresholds for Category A, vegetation removal only work to 2-acres of waterway corridor or 2,500 linear feet of watercourse.

Staff Response to Comment SLO Co. PWD - 5

The following activities have been added to Category A: dead tree or debris removal activities that do not include construction of a new access road, occurring in a total area of disturbance of one acre or less, invasive plant treatment conducted without root disturbance or mechanical removal or management, and trimming, limbing, or weed whipping of vegetation including live native vegetation conducted by hand or using prescribed herbivory and occurring within an area of two acres or less. Organizations that conduct annual routine work beyond the scope of the Order should apply for a programmatic permit. The Central Coast Water Board has issued such permits to numerous organizations.

SLO Co. PWD - 6

Section IV.E defines cumulative impacts as including "probable future projects". This phrase is undefined and overreaching and should not be included.

COUNTY RECOMMENDATION: Remove "and the effects of probable future projects" from Section IV.E.

Staff Response to Comment SLO Co. PWD - 6

The use of “probable future projects” in section IV.E in relation to cumulative impacts has been modified to refer to “reasonably foreseeable probable future projects” and the terms should be interpreted as they are used within the context of CEQA.

SLO Co. PWD - 7

Section VII.C introduces drastic changes to the use of goat herds or similar, for vegetation management projects. These regulations are unduly burdensome (i.e. full-time monitoring). Secondary to this, these requirements should be in concert with, not in exceedance of, rules for our agricultural grazing community.

COUNTY RECOMMENDATION: Remove Section VII.C.

Staff Response to Comment SLO Co. PWD - 7

The requirements in Section VII.C apply specifically to prescribed herbivory animals temporarily introduced for the primary purpose of fire fuel reduction. The Order regulates vegetation removal and management activities with the primary purpose of fire or flood risk reduction, not activities conducted for other primary purposes, such as agricultural grazing.

This Order will only regulate projects that occur in waters of the state or riparian areas and has been further edited to only apply within local responsibility areas. Prescribed herbivory occurring over an area up to five acres in the local responsibility area and within waters of the state and riparian areas is subject to the low tier requirements of this permit, which do not require mitigation. While prescribed herbivory is an effective tool for fire risk reduction, it can contribute to pollution, soil compaction, and erosion, making regulation necessary to protect water quality and beneficial uses.

VII.C.1 has been modified to eliminate the requirement for the trained supervisor or herder to remain on-site full-time during operations.

SLO Co. PWD - 8

Section VIII.D.3.a-b discusses requirements for management activities along longer sections of watercourses. Alternating single-bank reaches, for example, is contrary to Section VII.E.3-5 and is more likely to lead to adverse impacts, such as mobilization of sediment from creating more interfaces of existing and project areas.

COUNTY RECOMMENDATION: Remove condition VIII.D.3.a. and remove “in-rotation” from VIII.D.3.b.

Staff Response to Comment SLO Co. PWD - 8

These measures describe preferred considerations for project design which minimize the impacts of sediment removal activities. For example, limiting work to a single bank allows for continuation of undisturbed area along a stream reach and avoids full disturbance of a stream reach from bank to bank, creating a gap in beneficial uses such as wildlife habitat. The term “maximum extent practicable” allows flexibility in application of the requirement and is typically determined by the discharger based on site conditions and best practices, but it is subject to review by regulatory agencies to ensure compliance with environmental standards. The sediment removal conditions in VII.E.3 and 4 (previously VII.E.5) may still be accomplished while incorporating minimization measures in VIII.D.3.a-b. Measure VII.E.4 of the Order has been removed.

SLO Co. PWD - 9

Section X.E.1.c.i appears to make all pesticide use a discretionary approval of the Central Coast Water Board. Pesticide use is already tightly regulated in California and application of pesticides by public agencies in or around waterways is typically a last resort. Further regulatory restriction through this order is unwarranted.

COUNTY RECOMMENDATION: Remove paragraph X.E.1.c.i further restricting pesticide usage.

Staff Response to Comment SLO Co. PWD - 9

The Central Coast Water Board has jurisdiction of the discharge of waste, such as pesticides, to waters of the state. Paragraph X.E.1.c.i does not restrict herbicide use beyond well-accepted best management strategies necessary to protect water quality and beneficial uses. For those projects that do necessitate an invasive species treatment plan, a description of Cal IPC Best Management Practices that apply to the specific project serves to ensure a complete project description.

SLO Co. PWD - 10

Authorization under this Draft Order should not rely on issuance of a Lake and Streambed Alteration Agreement, or any other permit, as described in XII.D.1.

COUNTY RECOMMENDATION: Revise XII.D.1 to require that a notification was made to CDFW in place of providing a signed agreement.

Staff Response to Comment SLO Co. PWD - 10

Section XII.D.1 has been revised to require evidence of submittal of a Lake and Streambed Alteration notification or other notification to CDFW, whichever is appropriate for the activity.

SLO Co. PWD - 11

Class III and IV watercourses do not appear to be categorically included in the jurisdiction of the Water Board. The definition provided in Attachment C needs to relate to the California Water Code.

COUNTY RECOMMENDATION: Remove the last paragraph of Attachment B, Section 1.D. Remove Class III and IV watercourse from coverage of this General Order.

Staff Response to Comment SLO Co. PWD - 11

The Central Coast Water Board regulates the discharge of waste that has the potential to affect the quality of waters of the state. Activities regulated by this Order occurring in Class III and IV watercourses discharge, or have the potential to discharge, waste to waters of the state, either directly or by serving to transport waste to waters of the state. As such, regulation of activities within Class III and IV watercourses is within the Central Coast Water Board's jurisdiction. In addition, the California Water Code definition of waters of the state is broad: "Any surface or groundwater, including saline waters, within the boundaries of the state." The term 'any surface water' includes Class III and IV watercourses. A stream does not cease being a surface water or water of the state because it is occasionally dry. Moreover, ephemeral drainages are commonly identified as waters of the state, as demonstrated by State Water Board Order 2004-0004-DWQ, which states "wetlands, riparian areas, and headwaters are shallow waters of the state"

and includes intermittent and ephemeral drainages in the definition of headwaters. Likewise, the State Water Board's *Procedures for Discharges of Dredged or Fill Material to Waters of the State* identifies ephemeral streams as waters of the state and artificial water features as potential waters of the state.

Removal of infrastructure as described serves to restore aquatic or riparian resource functions and is therefore appropriate for consideration as compensatory mitigation to offset adverse impacts of projects enrolled under this order. Its inclusion in Attachment B serves as an example of a potential mitigation approach. Infrastructure located along streams and riparian areas is known to be a source of polluted runoff and other impacts to beneficial uses and water quality. Infrastructure removal and habitat restoration is commonly considered as an option for other projects that require compensatory mitigation. Its inclusion in Attachment B serves as an example of a potential mitigation approach. If the infrastructure removal described in the last paragraph of Attachment B, Section I.D is not feasible for a discharger, they are not required to incorporate that restoration activity in their compensatory mitigation plan.

SLO Co. PWD - 12

Several requirements within the Draft Order conflict or differ from existing related state policies. Restrictions on the allowable timeframe for in-channel work, the criteria for qualifying rain events, and the emergency notification requirements should be revised to align with criteria and requirements established by existing State orders.

First, this Draft Order unduly restricts the allowable window for completion of winter season flood prevention management activities. Typically, these activities are scheduled to occur outside of nesting bird season (ending August 31), and prior to flow formation in the channels/streams/waterways, which recently has been as "late" as January. Regional variability and seasonal rainfall patterns may prolong dry channel conditions well beyond September 30, and typical first-of-the-season rainfalls don't generate significant flows as the moisture condition of the watershed is still very low.

COUNTY RECOMMENDATION: Remove calendar date restrictions on work windows. Reference specific field conditions and reporting field conditions instead (i.e. nesting bird season, anticipated rainfall, sustained in-channel flow volumes, etc.)

Staff Response to Comment SLO Co. PWD - 12

Section V.D.2 has been revised to eliminate the window for vegetation management activities with the primary purpose of fire risk reduction. The work window for sediment removal and management project activities has been updated to June 1 to September 30, though emergency activities can occur outside the work window. Such work window limitations are appropriate for a general order addressing numerous activities and work locations, especially those activities that are Category A non-notifying. If an applicant wishes to work outside the work windows in the Order, the Order provides the applicant with an opportunity to request an extension at section VI.D. Such projects will be Category B notifying.

SLO Co. PWD - 13

The rain event threshold for stopping management activities is not a sufficient amount to activate streamflow for a majority of waterways, especially if it's early in the season. For consistency, the Central Coast Water Board should increase these thresholds and reference the

'Qualifying Rain Event' THRESHOLDS from the 2022 Construction General Permit (ORDER 2022-0057-DWQ).

COUNTY RECOMMENDATION: Modify the qualifying rain event threshold to align with the Construction Stormwater General Permit Order 2022-0057-DWQ (adopted September 8, 2022).

Staff Response to Comment SLO Co. PWD - 13

The prohibition of project activities during predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments. Since the Order regulates activities occurring within waterbodies, the thresholds do not necessarily match the construction stormwater permit, which more typically regulates activities occurring outside water bodies.

SLO Co. PWD - 14

Requiring notification 14 days before emergency work is not standard practice and must be reconsidered. In a declared emergency, when conditions present a threat to life and property, applicants should not be prevented from conducting management activities due to advance noticing requirements.

COUNTY RECOMMENDATION: Remove the requirement to notify before conducting emergency work. Revise to reflect that notification should be made 'as soon as practicable' when an emergency condition exists or local emergency or disaster has been declared. Revisions to notification procedures should align with the requirements of existing general orders such as WQ 2023-0095-DWQ.

Staff Response to Comment SLO Co. PWD - 14

Condition XII.A.3 has been modified to include the following to align with emergency notification requirements in other Water Board emergency orders: "Category B projects that meet the definition of an emergency as defined in Order section II.A.4.a through II.A.4.c shall notify the Central Coast Water Board as early as possible, and no less than 48 hours before initiating the emergency project. Notification may be via telephone, email, written notice, or other verifiable means. If not included as part of the initial notification, the Discharger must submit a complete Notice of Intent within three (3) business days of the notification." It is also important to note that projects subject to emergency Clean Water Act section 401 water quality certifications will be subject to those certifications, rather than this Order. This Order only applies to fire and flood risk reduction activities in waters of the state not subject to Clean Water Act section 401.

SLO Co. PWD - 15

The language in Draft Order Sections VIII.E.2 and VII.F discussing dewatering criteria does not clarify which projects are specifically subject to dewatering requirements. It is also unclear under which scenarios a separate permit or authorization would be required for dewatering.

COUNTY RECOMMENDATION: Clarify which management activities require dewatering. Projects limited to hand removal of dead and downed debris should not be required to dewater. Clarify what conditions would require a separate permit or authorization for dewatering, and what permit and application process should be followed.

Staff Response to Comment SLO Co. PWD - 15

Section VIII.D.1 clarifies that diversion or dewatering is not permitted for Category B low-tier projects, such as projects limited to hand removal of dead and downed debris. Section VIII.D.2 clarifies that for Category B medium and high-tier projects, if surface water is present in areas where instream activities will occur, the Discharger must submit a diversion/dewatering plan with the Notice of Intent (NOI) in compliance with Section X.F of the Order. The activities falling under Category A are unlikely to necessitate dewatering. If an applicant determines dewatering is necessary to conduct a Category A activity, then the dewatering requirements for all projects at section VII.F apply. It is also worth noting that most dewatering projects will require coverage under Clean Water Act section 401, in which case this Order does not apply.

SLO Co. PWD - 16

Draft Order Sections VIII.A.2 and X.A.1.k requiring modeling or equivalent quantifiable assessment methods but lacks clear objectives and presents a potentially significant burden to applicants. Accurately modeling evolving geomorphology is highly challenging even in best-case scenarios where historical calibration data are available. Requiring modeling to determine acceptable vegetation removal amounts and potential future fluvial geomorphological impacts is an unnecessary degree of analytical study for the purpose of conducting limited-scale management activities.

COUNTY RECOMMENDATION: Remove modeling requirements for vegetation management projects. Section VIII.A.2 should be revised to replace the requirement for modeling with assessment by a qualified professional (Engineer, registered forester, arborist, biologist, etc.) who can determine necessary amounts of vegetation removal to meet project goals. Provide “if appropriate” for section X.A.1.k.

Staff Response to Comment SLO Co. PWD - 16

As outlined in the State Water Resources Control Board’s Procedures for Discharges of Dredged or Fill Material to Waters of the State, avoidance and minimization of adverse impacts to beneficial uses of surface waters of the state is standard practice for the Central Coast Water Board. It is also necessary to comply with state antidegradation policy. Use of modeling or equivalent quantifiable assessment to identify the amount vegetation management necessary to achieve flood risk reduction goals is an important tool for ensuring adverse impacts to beneficial uses are avoided and minimized. This approach is routine for issuance of Clean Water Act section 401 water quality certifications for flood risk reduction projects and was also used by the Central Coast Water Board when issuing waste discharge requirements to the City of Paso Robles for fire risk reduction activities in the Salinas River.

Condition VIII.A.2 has been modified to remove “as determined by modeling or equivalent quantifiable assessment methods.” Section X.A.1.k. only applies to non-emergency high tier vegetation removal or management project activities, and therefore will be limited in its application and proportional to project impact. In addition, the requirement to include modeling or equivalent quantifiable assessment methods to support that the described vegetation removal is necessary has been limited to flood risk reduction projects, since those are most likely to impact channel form. Data collection is expected to be part of the design process for flood risk reduction projects and any additional data needed for flood modeling can be accomplished as part of the same project preparations.

SLO Co. PWD - 17

The requirements for staging areas, equipment usage and equipment movement through wetted channels are overly prescriptive and impractical for implementation.

Setbacks for staging areas required in section V.F.1 do not consider that existing levees, berms or other topography may isolate the channel from a staging area. This requirement could also result in significantly greater project costs associated with leasing property outside established easements simply for the purposes of staging equipment.

Section V.E.2 severely limits vehicular access in project areas. The requirement is impractical. Section V.E.3 as written provides adequate protection for wetted creek areas.

COUNTY RECOMMENDATION: Modify Section V.F.1 to increase flexibility with the riparian buffer requirements. Modify Section V.E.2 to “minimize transit through wetted channel to maximum extent practical.”

Staff Response to Comment SLO Co. PWD - 17

The language in section V.F.1 has been updated to allow equipment and vehicle staging and maintenance within 100 feet of waters of the state and riparian areas if it is limited to existing roads, parking areas, and other pre-disturbed sites. Section V.E.2 remains unchanged, as the prohibition of crossing wetted channels is a common condition in water quality orders and 401 Certifications. This prohibition is designed to prevent sediment mobilization, disruption of aquatic habitats, and contamination of surface waters, which are particularly vulnerable in wetted conditions.

SLO Co. PWD - 18

The Draft Order does not make a clear distinction between the installation of final stabilization measures, and when final stabilization criteria are achieved. These project milestones should be identified separately, with requirements tailored to each milestone. Additionally, the Draft Order does not consider that vegetation may not be present as part of the ‘existing condition’ in locations where sediment removal activities are being conducted. Sections V.C.4 and 5 would require unnecessary efforts to revegetate substrates that were not vegetated in their pre-project condition (i.e. gravel bars, sand bars, sediment deposits overlying bedrock.)

COUNTY RECOMMENDATION: Include pre-project condition characterization and allowances for stabilization requirements in Section V.C. Revise section V.H.3 to reflect that staff are only required to remain onsite until installation of final stabilization measures is completed.

Staff Response to Comment SLO Co. PWD - 18

Sections V.C.5 and V.H.3 have been removed from the Order. V.C.4 has been modified to focus on implementation of erosion control measures for temporary soil disturbances within surface waters of the state and riparian areas. It removes language encouraging regrowth of native plants and instead emphasizes erosion prevention.

SLO Co. PWD - 19

Further consideration should be given to requirements in Section V.G.1.b, requiring the covering of large woody debris piles, and Section VI.B.5, requiring that identification and delineation markers remain in place until soils have been stabilized (final stabilization achieved.) These

unnecessarily introduce additional plastics to the watercourse and could result in tarps, flagging, stakes, and similar markers remaining within active waterways for several months during the rainy season and risk them washing downstream.

COUNTY RECOMMENDATION: Remove section V.G.1.b. Revise section VI.B.5 to require project delineation markers only until final stabilization measures are installed and allow their removal prior to achieving soil stabilization

Staff Response to Comment SLO Co. PWD - 19

Section V.G.1.b has been modified to eliminate the requirement to cover stockpiles and instead focuses on stabilization and linear sediment BMPs to prevent sediment mobilization during predicted rain events. Section VI.B.5 has been updated to allow the use of handheld or vehicle-mounted GPS/GIS devices as an alternative to flagging or staking for delineation. Additionally, the requirement now specifies that markers or GPS/GIS project files must be maintained only until project activities are completed and final stabilization measures are installed.

SLO Co. PWD - 20

Section IX describes temporary impacts restoration and mitigation. There are strict timelines providing for achieving restoration that may conflict dry season conditions, when planting seed or youngling plants is discouraged. Provisions for seasonal flexibility should be provided.

COUNTY RECOMMENDATION: Provide seasonal flexibility for Section IX.

Staff Response to Comment SLO Co. PWD - 20

Section IX has been modified to clarify what stabilization measures are required at the conclusion of project activities in the low tier and when a project includes sediment removal only. Prompt installation of stabilization measures in inactive areas is necessary to protect water quality especially in advance of rain events following completion of project activities. Taking into consideration the optimal timing for revegetation, and to avoid causing a time lag between project impacts and restoration of aquatic resource function and beneficial uses, the requirement for completion of temporary impact restoration if revegetation is required has been extended to twelve months after completion of work in impacted areas.

SLO Co. PWD - 21

The County opposes requiring mitigation “in perpetuity”. All instances of this (Section IX.B.8) should be revised to a more specific and refined goal. The highly dynamic nature of waterways does not necessitate that mitigation measures exist offsite on land that must be protected in perpetuity. Fluctuations in tree canopy coverage, vegetation species age and diversity, and riparian geomorphology are present within fully functional natural ecosystems where no management activities occur.

COUNTY RECOMMENDATION: Remove “in perpetuity” from the Draft Order and include a 10-20 year timeframe for mitigation site protection based on project scope.

Staff Response to Comment SLO Co. PWD - 21

The Order has been revised to require compensatory mitigation sites to be protected from the time compensatory mitigation is installed until review and approval of the Project Completion Report. It is important to ensure dischargers' ability to access, maintain, and monitor the mitigation site so that all success criteria in the mitigation plan are met.

SLO Co. PWD - 22

The County of San Luis Obispo recognizes that the Draft Order does not include specific information related to annual reporting formats, or review and approval timelines. The County encourages the development of fillable forms or templates where applicable, so that required documentation is easily reported and reviewed.

The Draft Order includes detailed timing requirements for applicant submittals and reporting but does not provide relief for applicants if the Central Coast Water Board staff does not conduct the 'completeness review' within 30-days of application receipt per Section XII.A.10. Additionally, there are no timelines associated with Water Board review and approval of a Work Window Extension Request (Section XII.D.4) or a Project Completion Report (Section XII.E). Timeliness of review and response from Central Coast Water Board staff is an essential element in allowing fire and flood risk reduction efforts to proceed during optimal work windows. Given the draft order includes many points of discretionary compliance conditions, the County is concerned this process will result in serious delays and impacts to project success.

COUNTY RECOMMENDATION: Include completeness review and response timeline requirements for Central Coast Water Board staff, similar to CDFW notification process.

Staff Response to Comment SLO Co. PWD - 22

It is the intent of the Central Coast Water Board to develop fillable Notice of Intent forms and guidance for applications for enrollment in the Order.

Section XII.A.10 has been modified so that if an applicant does not receive any response from Central Coast Water Board staff before the end of the tier-specific time frame, the discharger may proceed with their project as described in the Notice of Intent and following the conditions of the Order.

The work windows in section V.D.1 and V.D.2 have been modified for more flexibility in maintenance timing, which will reduce the need to submit work window extension requests for many project activities that do not include sediment removal. Section VI.D.1 related to extended work windows for Category B projects has been modified to allow the discharger to proceed with work outside of the work windows in Section V.D.1 and V.D.2 if no response has been received within 14 days of the submittal of the work window extension request.

The Discharger is responsible for awareness of and compliance with all applicable reporting requirements and completing all required temporary impact restoration and any required compensatory mitigation activities before submitting a Project Completion Report. Since any delay in review of the Project Completion Report does not prevent the Discharger from submitting a Notice of Intent to continue project activities at the end of five years from the date of receipt of the Notice of Applicability, no review period timeline is necessary.

Central Coast Water Board staff recommend that Dischargers such as flood control agencies develop jurisdiction-wide maintenance programs for programmatic Clean Water Act section 401 water quality certification so that reoccurring annual maintenance is permitted in advance, reducing the need for multiple individual enrollments.

Childress - 1

A combination of factors, such as climate change and long-term fire exclusion, have led to increased intensity and scale of wildfires across the state in recent years. It is imperative that landowners and managers have the ability to proactively improve ecosystem resilience, and thus community resilience to wildfire. Prescribed fire is an integral tool in achieving these goals.

Staff Response to Comment Childress - 1

Comment noted. Central Coast Water Board staff acknowledges the importance of prescribed burns in reducing wildfire risks. Prescribed burn activities will be classified as Category A (non-notifying), provided basic best management practices are implemented. By streamlining the permitting process through this Order, the resource-intensive process of obtaining individual waste discharge requirements can be avoided, thereby supporting the increased pace and scale of fire risk reduction activities.

Childress - 2

The vast majority of the literature addressing postfire erosion is specifically related to large wildfire events, many of these being uncharacteristically high severity wildfires. Of the sources we found that address the effects of prescribed fire on erosion specifically, the documented erosive effects overall were nil to minimal where any necessary recovery was swift and complete (Beche et al., 2005; Arkle & Pilliod 2010; Pilloid & Arkle, 2012; Bixby et al., 2015; Klimas et al. 2020; Beyenne et al. 2023). Please note, full references are provided on page 4.

Staff Response to Comment Childress - 2

Comment noted. Conditions for erosion and sediment control that apply to prescribed fire projects only address activities that disturb soil, such as grading of control lines within surface waters of the state and riparian areas. Such areas can be ongoing sources of erosion and sediment, especially in sloped areas. Erosion and sediment control measures are straightforward and justified in such cases.

Childress - 3

It is our recommendation that the Water Board delay the implementation of this rule until a solid scientific basis concerning prescribed fire can be established. The scientific basis for these decisions is based on the CA Forest Practice Rules, however, the Forest Practice Rules currently have very little information on prescribed burning. The University of California Agriculture and Natural Resources, California Fire Science Consortium and other fire professionals are willing to help with that process.

Staff Response to Comment Childress - 3

While Central Coast Water Board staff contacted and/or collaborated with groups such as CAL FIRE, resource conservation districts, municipal fire departments, tribes, and prescribed burn associations during development of the Order, we are providing additional public process prior to proposing adoption of the Order. The Order has been revised to address many comments received from the beneficial fire community and will be recirculated for additional public comment. Central Coast Water Board staff held additional discussions with the San Luis Obispo County Fire Safe Council, California State Parks, and the Amah Mutsun Tribal Band. Central Coast Water Board staff will hold further ongoing discussions with the Central Coast Prescribed Burn Association, UC Agriculture and Natural Resources, and others.

Childress - 4

Modify “D. Project Timing” portion of the requirements, “25 percent or more chance of at least 0.1-inch rain in 24 hours (Predicted Rain Event)” to >60% chance of 0.2 inch.

- *This is unfeasibly narrow. 25% is potentially fog to drizzle to nothing. 0.1 inch is also very little rain. Forest Practice rules outline 0.2 inch of rain. Studies suggest: “The minimum rainfall intensity needed to trigger post fire runoff is generally around 0.2 inches per hour (5 millimeters per hour) for a 60-minute duration” (Moody, 2012; Wilson et al., 2018). These studies are specific to wildfires, not prescribed fires, which typically result in lower severity fire effects than wildfires.
(<https://bof.fire.ca.gov/media/0wmlbt05/california-forestry-report-7-post-fire-salvage-logging.pdf>)*
- *The certainty of prediction should be higher than 25% as that is often a constant in the late fall to early spring.*

Staff Response to Comment Childress - 4

The prohibition of project activities during predicted rain events has been modified to a 30% chance or more of 0.2 inches of rain for mechanical operations, prescribed herbivory, and herbicide application and to a 50% chance or more of 0.2 inches of rain for manual treatments.

Childress - 5

Modify “2. The work window for sediment removal...” to follow the rain event requirements in recommendation number 1.

- *When also considering bird nesting season as a factor, this could often limit work to August 1-Nov 30, which is a very short period in which to complete project work.*

Staff Response to Comment Childress - 5

Section V.D.1 has been revised to allow year-round vegetation management and removal activities for fire risk reduction. The work window for sediment removal and management project activities has been updated to June 1 to September 30 in section V.D.2. A work window extension request may be submitted for Category B projects that require work to occur outside these windows.

Childress - 6

Exclude/Exempt grasslands from the 5 year window under “VI. Additional General Conditions for Category B Projects. 1. Category B low tier project activities...”

- *It is often ecologically imperative to burn more frequently (every 2-4 years) in these ecosystems. Burning of grassland results in little to no sedimentation issue, as a thatch layer is often left and roots of shrubs/ perennial grasses remain.*

Staff Response to Comment Childress - 6

Prescribed fires are Category A projects, provided basic protective measures are followed, so the 5-year window requirement does not apply to them. Additionally, it's important to note that the Order only applies to prescribed fires within surface waters of the state and riparian areas. To accommodate repeated vegetation management, we have removed the term "one-time," allowing vegetation removal activities to be conducted on an annual basis as needed.

Childress - 7

Clarify Section “VII. Activity-Specific Conditions for All Projects. A. Vegetation Removal or Management. 1. Retain native trees and shrubs with a diameter of four inches or more at breast height to the maximum extent practicable. Trees that require removal shall be felled away from adjacent streams or waterbodies and piled outside of the riparian area, unless being retained to provide wildlife habitat.”

- *Is this rule only within the riparian area? Overall objectives within a burn unit often include reducing small tree density to enhance the health and resilience of larger trees, size being species/ecosystem dependent.*

Staff Response to Comment Childress – 7

All references to vegetation management or removal pertain to activities conducted in riparian areas. This Order does not regulate activities or discharges occurring outside surface waters of the state or riparian areas. This has been clarified in footnote 3 on page 3 of the Order.

Childress - 8

Modify Section “VII. Activity-Specific Conditions for All Projects. A. Vegetation Removal or Management. To the maximum extent practicable, retain canopy cover and limit ladder fuel trimming to a maximum of six feet from the ground” to 8-10 feet from the ground.

- *This allows people and equipment to work safely under the canopy.*

Staff Response to Comment Childress – 8

Central Coast Water Board staff recognizes that appropriate heights can vary based on site-specific conditions. The Order language has been modified to allow flexibility in ladder fuel removal heights by increasing the removal height to eight feet from the ground, unless site-specific conditions and professional judgment deem a greater height necessary.

Childress - 9

Correct errors and clarify requirements within the prescribed fire section.

- *“4. ...implement a mosaic burn pattern...” Although fire naturally tends to burn in a mosaic across the landscape, it’s generally not possible to exclude specific areas in any given burn unit without additional disturbance, such as containment line construction.*
- *“5. ...employ ignition patterns like head fires or flanking fires to promote low -intensity burns.” A head fire does not lead to low intensity burns (Birch et al., 2023). Additionally, grassland and brushlands respond positively and rapidly to burning, including those of high intensity, which are part of the historical fire regime. As such, they should be excluded from this.*
- *“6. ...plan multiple, smaller burns over several seasons...” The word “smaller” should be clarified. Everything is smaller than highly impactful wildfires.*

Staff Response to Comment Childress – 9

The referenced conditions have been removed from Order section VII.B.

Childress - 10

Correct conflict with state law regarding “B. Prescribed Fire Plan. 1.”

- *Landowners have a right to burn without a burn plan in Cal Fire units that have an open burn season (B units). It is not within the Water Board's jurisdiction to circumvent this right.*

Staff Response to Comment Childress – 10

The requirement to submit a prescribed fire plan has been removed from sections VIII.B.1 and X.B.

Childress - 11

Modify “B. Prescribed Fire Plan. 2. c.” to exclude grassland and shrubland, which are adapted to high intensity fire.

Staff Response to Comment Childress - 11

Section B. Prescribed Fire Plan has been removed from the Order. Additionally, this Order does not regulate activities or discharges occurring outside surface waters of the state or riparian areas, so upland areas are excluded from Order conditions related to vegetation management. This has been clarified in footnote 3 of the Order.

Childress - 12

Modify the flowchart to be more user friendly. It is confusing and unhelpful in its current form.

Staff Response to Comment Childress - 12

Additional clarifying introductory language has been added to the Order. In addition, to determine tiering, applicants can follow the written key in Attachment A.

Childress - 13

Provide more information under “c. For Class III watercourses: iv. Implementation of erosion control measures at any control line that crosses a Class III watercourse.”

Staff Response to Comment Childress - 13

Examples of erosion control measures for control lines crossing Class III watercourses include mulching (such as from mastication), mowing instead of blading, seeding with native grasses, redirecting runoff from top of slopes, and installing measures to slow runoff, such as water bars, gravel bags, or fiber rolls.