

**STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER QUALITY**

**ORDER WQ 2011-0014-DWQ  
MODIFYING ORDER NO. R5-2010-0022**

**MODIFICATION OF CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES RELATED TO TIMBER HARVEST ACTIVITIES  
IN THE CENTRAL VALLEY REGION**

The State Water Resources Control Board, (State Water Board) finds that:

1. California Water Code (Water Code) section 13260, subdivision (a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate regional water board a report of waste discharge containing such information and data as may be required by the board and the first annual fee applicable to waste discharge requirements, unless the board waives such requirement.

2. Water Code section 13269, subdivision (a) provides that a regional water board or the State Water Board may waive the requirements to submit a report of waste discharge and to obtain waste discharge requirements as to a specific discharge or specific type of discharge, if the board determines that the waiver is consistent with any applicable water quality control plan and such waiver is in the public interest. Water Code section 13269 further provides that any such waiver of waste discharge requirements shall be conditional, may not exceed five years in duration, and may be terminated at any time by the board.

3. Water Code section 13269 includes the following provisions:

- The waiver shall include the performance of individual, group, or watershed-based monitoring, unless the board determines that the discharges do not pose a significant threat to water quality.
- Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors.
- Monitoring results must be made available to the public.

4. The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board), issued a conditional waiver of waste discharge requirements for discharges related to timber harvest activities in the Central Valley Region on January 30, 2003 (Waiver), and renewed the Waiver on January 27, 2005 and April 28, 2005. On March 18, 2010, the Central Valley Water Board issued [Order R5-2010-0022](#), which renewed the Waiver until March 31, 2015.

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5. Water Code section 13269 authorizes the Central Valley Water Board to include as a condition of a waiver the payment of an annual fee established by the State Water Board. At the time of this hearing the State Water Board has not established annual fee regulations with respect to waivers of waste discharge requirements for timber harvest activities.

6. The Central Valley Water Board has adopted the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (4<sup>th</sup> Edition 1998) and the Water Quality Control Plan for the Tulare Lake Basin (2<sup>nd</sup> Edition 1995) (Basin Plan), including subsequent amendments, that establishes beneficial uses, water quality objectives, waste discharge prohibitions, and implementation policies that apply to waters of the State and discharges to waters of the State within the Central Valley Region.

7. Pursuant to the Basin Plan and State Board Plans and Policies, including [State Water Board Resolution No. 88-63](#), the existing and potential beneficial uses of waters in the Central Valley Region include:

- (a) Agricultural Supply (AGR)
- (b) Aquaculture (AQUA)
- (c) Preservation of Biological Habitats of Special Significance (BIOL)
- (d) Cold Freshwater Habitat (COLD)
- (e) Commercial and Sportfishing (COMM)
- (f) Estuarine Habitat (EST)
- (g) Freshwater Replenishment (FRSH)
- (h) Ground Water Recharge (GWR)
- (i) Industrial Service Supply (IND)
- (j) Migration of Aquatic Organisms (MIGR)
- (k) Municipal and Domestic Supply (MUN)
- (l) Navigation (NAV)
- (m) Hydropower Generation (POW)
- (n) Industrial Process Supply (PRO)
- (o) Rare, Threatened, or Endangered Species (RARE)
- (p) Water Contact Recreation (REC-1)
- (q) Non-contact Water Recreation (REC-2)
- (r) Shellfish Harvesting (SHELL)
- (s) Spawning, Reproduction, and Development (SPWN)
- (t) Warm Freshwater Habitat (WARM)
- (u) Wildlife Habitat (WILD).

8. [State Water Board Resolution 68-16](#) ("Statement of Policy with Respect to Maintenance of High Quality Waters in California") requires the Central Valley Water Board to regulate discharges of waste to waters of the state to achieve highest water quality consistent with maximum benefit to the people of the State. It further requires that the discharge meet

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waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the State will be maintained. The Central Valley Water Board found the Waiver to be consistent with Resolution 68-16. This revision to the Waiver will not change any requirements of Order No. R5-2010-0022 other than certain fee requirements. This revision is consistent with Resolution 68-16 because it does not authorize degradation of any waters of the State.

9. The Central Valley Water Board, acting as the lead agency for this project under the California Environmental Quality Act (Public Resources Code, section 21000 et seq.) (CEQA), conducted an Initial Study in 2002 in accordance with title 14, California Code of Regulations, section 15063.

10. The Central Valley Water Board adopted a negative declaration pursuant to CEQA on January 30, 2003 when it issued the Waiver. This action to renew the Waiver does not require preparation of a subsequent or supplemental environmental document pursuant to title 14, California Code of Regulations, sections 15162 or 15163. There is no evidence to indicate that substantial changes are proposed for the project, that substantial changes have occurred with respect to the circumstances of the project, or that there is new information of substantial importance with respect to the project, as described in section 15162, subdivision (a). In addition, it can be seen with certainty that there is no possibility that the revision may have a significant effect on the environment. (Cal. Code of Regs., tit. 14, §15061, subd. (b)(3).)

11. The Central Valley Water Board found that the Waiver is in the public interest as follows. This revision to the Waiver does not affect these findings:

- (a) Timber harvest activities are primarily regulated by other agencies, including CAL FIRE and the USFS. The Central Valley Water Board does not approve timber harvests, but it does have authority to require compliance with the California Water Code.
- (b) Without the Waiver, timber harvest activities would continue under authority of those other agencies, but such activities may not be subject to appropriate water quality protective conditions.
- (c) Without the Waiver, the Central Valley Water Board could regulate a smaller percentage of timber harvest activities in the Region due to limited staff resources, but with the Waiver, timber harvest activities acting pursuant to the Waiver are subject to enforceable conditions.
- (d) The Waiver contains conditions that require compliance with the applicable Basin Plan, including applicable water quality objectives.
- (e) The Waiver contains conditions requiring compliance with monitoring and reporting programs that will assist in the protection of water quality and in verification of the adequacy and effectiveness of Waiver conditions.
- (f) Compliance with the conditions of the Waiver will result in protection of water quality.
- (g) The Waiver does not approve of or authorize pollution.

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- (h) The Waiver conditions are subject to enforcement pursuant to Water Code section 13350 in the same way as enforcement of waste discharge requirements.
- (i) The Waiver is an effective mechanism given staff resources to regulate a large number of potential discharges and allows staff to maximize its field presence.
- (j) The Waiver allows staff to continue to participate in the pre-harvest review of proposed timber activities which provides staff the ability to require implementation of protective measures beyond those required by CAL FIRE and the USFS for the most critical timber operations.
- (k) The State Water Board, on January 22, 2004 and in [Order No. WQQ 2004-0002](#), affirmed the Central Valley Water Board Waiver and stated: "The Waiver includes specific criteria to ensure compliance with requirements of the Basin Plan and to prevent discharges that may substantially impact water quality. Further, the Regional Board's actions were consistent with State Board policies and procedures and the terms of the Waiver do not exceed the Regional Board's statutory authority."
- (l) The Waiver has been in effect since 2003, and based on the Central Valley Water Board's experience, the Waiver has resulted in increased use of management practices to protect waters of the state such as the inclusion of staff recommendations during field review of timber harvest plans and the inclusion of additional management practices in submittals not field-reviewed by staff.
- (m) The MRP has been in effect since mid-2005, and based on the Central Valley Water Board's experience, the MRP has resulted in accelerated application of management practices to protect waters of the state once failures or potential failures have been identified.
- (n) The Waiver, given limited Central Valley Water Board staff resources, provides a framework that most effectively utilizes resources to regulate discharges of wastes.

12. This revision of the Waiver will remove the requirement for Category 3 and 4 dischargers to pay the first annual fee with their enrollment documents. This revision is in the public interest because it treats Category 3 and 4 dischargers the same as similarly situated dischargers throughout the state for purposes of annual fees and is consistent with the State Water Board's fee schedules.

13. When it adopted the Waiver, the Central Valley Water Board made the following findings. This revision to the Waiver does not affect these findings:

- (a) The Waiver is consistent with applicable water quality control plans as it requires compliance with the Basin Plan, including applicable water quality objectives, prohibits the creation of pollution or nuisance, and includes eligibility criteria and conditions to protect waters of the State.
- (b) The Waiver requires compliance with monitoring conditions consistent with the amendments to Water Code section 13269.

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(c) As described in the administrative record, the adoption of individual waste discharge requirements for all timber harvest activities in the Central Valley Region is not feasible at this time. The Central Valley Water Board receives for review more than 2000 timber harvest documents annually. Given the number of Central Valley Water Board staff and other factors, including the timing of the CAL FIRE timber harvest approval process and the time needed to adopt waste discharge requirements, it is not feasible for the Central Valley Water Board to adopt many individual waste discharge requirements in a year. General waste discharge requirements on, for example, a watershed-by-watershed approach, would also take a significant amount of time given the large number of watersheds and sub-watersheds in the Region. Thus, without the Waiver, most timber harvest activities would not be subject to any regulation under the California Water Code. Waste discharge requirements do not provide identifiable benefits over this Waiver because the Waiver contains essentially the same conditions that would be included in waste discharge requirements, such as the requirement to comply with water quality control plans, and the Waiver is enforceable to the same extent as waste discharge requirements. The adoption of waste discharge requirements, however, is not precluded because pursuant to Water Code section 13269, a waiver may be terminated at any time without cause.

14. Ordering Paragraph 7 of Order R5-2010-0022 states, "Dischargers enrolling under Categories 3 or 4 of the Waiver shall submit a fee with the report of waste discharge, as described in Attachment A." Ordering Paragraph 19 states: "If all timber Personnel Years are fully general-funded for the 2010/2011 fiscal year, the Executive Officer shall propose a modification to the Waiver which waives all reports of waste discharge." This Order modifies Order No. R5-2010-0022 by waiving the requirement to submit a report of waste discharge for all categories of discharge subject to the Waiver. Thus, Category 3 and 4 dischargers will not be required to pay any fee unless the State Water Board establishes an annual fee schedule for waivers of waste discharge requirements for discharges related to timber harvest activities.

15. The Central Valley Water Board and State Water Board have given notice of this revision of the Waiver to all known dischargers and other interested persons.

16. The State Water Board conducted a public meeting on September 19, 2011, in Sacramento, California, and considered all testimony and evidence concerning this revision to the waiver.

**IT IS HEREBY ORDERED:**

1. The State Water Board hereby conditionally waives the requirement to submit a report of waste discharge for Waiver Categories 3 and 4. Ordering Paragraph 5 of Order No. R5-2010-0022 is modified to add the following sentence to the end: "Effective on September 19, 2011, the State Water Board waived the requirement to submit a report of waste discharge for Waiver Categories 3 and 4." Ordering Paragraphs 7 and 19 of Order No. R5-2010-0022 are hereby stricken.

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2. The State Water Board hereby modifies [Attachment A](#) to Order No. R5-2010-0022 as shown in the attached redline/strikeout version.
3. Dischargers currently enrolled under the Waiver shall continue to be covered under the Waiver, without re-enrolling.
4. If the State Water Board establishes an annual fee schedule for waivers of waste discharge requirements for discharges related to timber harvest activities, all Dischargers shall pay the applicable annual or enrollment fees as a condition of maintaining coverage under the Waiver.
5. The discharge of any waste not specifically regulated by the Waiver is prohibited unless the discharger complies with Water Code section 13260, subdivision (a) and the Central Valley Water Board either issues waste discharge requirements pursuant to Water Code section 13263 or an individual waiver pursuant to Water Code section 13269 or, in the case of a discharge that does not create or threaten a condition of pollution or nuisance, the time frames in Water Code section 13264, subdivision (a) have elapsed.
6. The Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in Water Code section 13263.
7. Pursuant to Water Code section 13269, the State Water Board's action waiving the requirement for Category 3 and 4 dischargers to submit a report of waste discharge: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Central Valley Water Board from administering enforcement remedies (including civil liability) pursuant to the California Water Code.
8. The Executive Officer or Central Valley Water Board may terminate the applicability of the Waiver as modified herein to any timber harvest activities at any time.
9. A waiver of waste discharge requirements for a type of discharge may be superseded by the adoption by the Central Valley Water Board of specific waste discharge requirements or general waste discharge requirements for that type of discharge, or by an action of the State Water Board.
10. The Waiver (Order No. R5-2010-0022 including Attachments A and B, and the Monitoring and Reporting Program) shall remain in effect except as specifically modified in this Order, and shall expire on March 31, 2015, unless terminated or renewed by the Central Valley Water Board. The waiver of the requirement for Category 3 and 4 dischargers to submit reports of waste discharge and associated enrollment fees shall take effect on September 19, 2011, and shall expire on March 31, 2015, unless terminated or renewed by the Central Valley Water Board.

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11. The Central Valley Water Board may review the Waiver at any time and may modify or terminate the Waiver in its entirety or for individuals, as appropriate.

**CERTIFICATION**

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 19, 2011.

AYE: Chairman Charles R. Hoppin  
Vice Chair Frances Spivy-Weber  
Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: None



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Jeanine Townsend  
Clerk to the Board

**ATTACHMENT A  
WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES RELATED TO  
TIMBER HARVEST ACTIVITIES  
PURSUANT TO  
CALIFORNIA WATER CODE SECTION 13269**

California Water Code (CWC) Section 13269 authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Board) to waive the requirement to submit reports of waste discharge and to waive the issuance of waste discharge requirements as to a specific discharge or type of discharge if the waiver is consistent with any applicable state or regional board water quality control plan and the waiver is in the public interest. Such waiver must be conditional, may not exceed five years in duration, and may be terminated at any time.

The Regional Board, on 30 January 2003 adopted Resolution No. R5-2003-0005, which included an Attachment A "Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities" (Waiver). The Regional Board, on 28 April 2005 adopted Resolution No. R5-2005-0052, which renewed the conditional waiver for discharges related to timber harvest activities for a term of 5 years, revised Attachment A, and added Attachment B "Monitoring and Reporting Conditions for Dischargers Enrolled Under the Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities Pursuant to California Water Code Section 13269." The Regional Board, on 18 March 2010 adopted Order R5-2010-0022, which renewed the Waiver and Attachments A and B for an additional 5 years.

Subject to the conditions set forth below, the Regional Board waives the requirement to submit a report of waste discharge or to obtain waste discharge requirements for the categories of waste discharges specified in Part II, Category Specific Conditions below related to timber harvest activities, provided that the following actions for nonfederal timber lands and for federal timber lands managed by the US Forest Service (USFS) continue in effect.

1. For nonfederal timber lands: The State Water Resources Control Board (State Water Board) continues to certify the "Water Quality Management Plan for Timber Operations on Nonfederal Lands in California," including those California Forest Practices Rules selected by the State Water Board as "best management practices," and continues the designation of the California Board of Forestry and Fire Protection (BOF) and the California Department of Forestry and Fire Protection (CAL FIRE) as the joint management agencies for implementation of the Water Quality Management Plan for timber operations on nonfederal lands in California.
2. For federal timber lands managed by USFS:
  - a. The State Water Board continues to certify and the US Environmental Protection Agency continues to approve, pursuant to Section 208 of the



federal Clean Water Act, the plan entitled "Water Quality Management for National Forest System Lands in California" including the best management practices set forth therein, and the designation of the USFS as the management agency.

- b. The USFS maintains: (a) a water quality program consistent with the Basin Plan and consistent with the requirements of all other applicable water quality control plans; and (b) a program to monitor the implementation and effectiveness of best management practices.

## **I. GENERAL WAIVER CONDITIONS**

### **A. Definitions**

1. "Timber Harvest Activities" means all activities on timberland relating to timber harvesting, including the cutting or removal, or both, of timber and other solid wood forest products, from timberlands for commercial purposes, together with all the work incidental thereto, including, but not limited to, construction, reconstruction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, beds for the falling of trees, fire hazard abatement, site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, but excluding preparatory treemarking, surveying or roadflagging. The term "commercial purposes" includes the cutting or removal of trees which are processed into logs, lumber, or other wood products and offered for sale, barter, exchange, or trade, or the cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber, including but not limited to residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects, and transportation projects.
2. "Discharger" means the timberland owner and anyone working on behalf of the timberland owner in the conduct of timber harvest activities for nonfederal lands, and the USFS, private timber operators operating on federal lands, and anyone working on behalf of the USFS or a timber operator in the conduct of timber harvest activities on federal lands.
3. "Plan" means any Timber Harvest Plan (THP), Nonindustrial Timber Management Plan (NTMP), or other discretionary permit issued by CAL FIRE to harvest timber, including all amendments thereto that propose a change in timber harvest activities that may increase the discharge or otherwise pose the potential for increased impacts to water quality. (For example, amendments that propose to add, expand, or extend winter operations shall be considered a "Plan" for purposes of this Waiver. Amendments that do not propose any material change in how or where timber harvest activities will be

conducted, such as a change in timber operator, a time extension from CAL FIRE, etc., shall not be considered a "Plan" for purposes of this Waiver.)

4. "Requirement of applicable water quality control plans" means a water quality objective, prohibition, TMDL implementation plan, or other requirement contained in water quality control plans adopted by the Regional Board and approved by the State Water Board, and plans or policies adopted by the State Water Board that apply to the timber harvest activities.
5. "Monitoring" refers to all types of monitoring undertaken in connection with determining water quality conditions and factors that may affect water quality conditions, including but not limited to, implementation, effectiveness, forensic, water quality compliance, assessment and trend monitoring, and Waiver compliance monitoring undertaken in connection with timber harvest activities.
6. All other terms shall have the same definitions as prescribed by the California Forest Practice Rules and the Porter-Cologne Water Quality Control Act, unless specified otherwise.

**B. General Conditions for Waiver Categories 1 through 5**

1. The discharger must comply with all requirements of applicable water quality control plans, and as these may be modified from time to time pursuant to amendments to water quality control plans adopted by the Regional Board and approved by the State Water Board, and water quality control plans and policies adopted by the State Water Board; and
2. The discharger shall conduct timber harvest activities in accordance with the approved Plan or CAL FIRE-accepted Exemption or Emergency Notice for nonfederal timberlands; or in accordance with the final environmental document and decision document prepared pursuant to the National Environmental Policy Act (NEPA) for timber harvest activities on federal lands managed by the USFS; and
3. The discharger shall not create a condition of pollution, contamination, or nuisance, as defined by CWC Section 13050; and
4. The discharger shall not discharge any waste not specifically regulated by the Waiver described herein and shall not cause alteration in stream temperature which exceeds water quality control plan requirements. Waste specifically regulated under this waiver includes: earthen materials, including soil, silt, sand, clay, rock; organic materials, such as slash, sawdust, or bark; and silvicultural pesticides that enter or threaten to enter into waters of the State. Examples of waste not

- specifically regulated under this Waiver include petroleum products, hazardous materials, or human wastes; and
5. The discharger shall allow Regional Board staff reasonable access onto the affected property whenever requested by Regional Board staff for the purpose of performing inspections and conducting monitoring, including sample collection, measuring, and photographing/taping to determine compliance with waiver conditions. Such inspections and monitoring shall be conducted consistent with CWC Section 13267(c), Public Resources Code Section 4604(b)(1), and other applicable law; and
  6. Any person seeking coverage under this Waiver shall file the applicable eligibility document(s) as described herein with the Regional Board. Dischargers shall file any additional eligibility documents required by the Executive Officer, which may include a State Water Board Form 200. Upon establishment of an applicable fee schedule by the State Water Board, Dischargers shall submit an annual fee in accordance with that fee schedule. Dischargers in Categories 3 and 4 that have previously paid a fee upon filing a report of waste discharge shall not be required to pay another annual fee for the same year; and
  7. Unless other timeframes are specified, discharges associated with timber harvest activities and pesticide applications that comply with the eligibility criteria, conditions, and procedures for a waiver may commence upon receipt by the Regional Board of the applicable documents as described in Part II – Category Specific Conditions, including acknowledgement of the Monitoring Conditions described in Attachment B; and
  8. This Waiver does not apply to discharges requiring an NPDES permit under the Clean Water Act, including silvicultural point sources as defined in 40 CFR 122.27.

## **II. CATEGORY-SPECIFIC CONDITIONS**

### **A. CATEGORY 1: MINOR TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS (including certain activities approved by CAL FIRE under Exemption or Emergency Notices, Timber Harvesting Plans, other Plans, or Amendments).**

#### **1. Eligibility Criteria:**

- a. Timber harvest activities (Notices of Exemption or Emergency) within 150 feet of existing structures (i.e., “FireSafe” treatments), harvest of Christmas trees, dead, dying or diseased fuelwood or split products, public

agency, public and private utility right of way, fuel hazard reduction, substantially damaged timberland unmerchantable as sawlog and woody debris and slash removal, that are conducted pursuant to a Notice of Exemption accepted by CAL FIRE under 14 California Code of Regulations (CCR) Section 1038(c), will automatically be enrolled in the Waiver.

- b. Timber harvest activities, other than the notices of exemption or emergency specified in (II)(A)(1)(a) above, that comply with the following criteria:
  1. No timber harvest activities on slopes greater than 60%.
  2. No tractor or heavy equipment operations on slopes greater than 50%.
  3. No construction of new tractor roads on slopes greater than 40%.
  4. No timber harvest activities within any Special Treatment Area "type a" or "type c," as defined in 14 CCR 895.1, except hauling over existing roads that complies with the rules associated with that Special Treatment Area.
  5. No tractor or heavy equipment operations on known slides or unstable areas.
  6. No new construction or reconstruction, as defined in 14 CCR 895.1, of logging roads, landings, or watercourse crossings.
  7. No timber harvest activities within the standard width of a Watercourse and Lake Protection Zone or Equipment Limitation Zone, as defined in 14 CCR 916.4 [936.4, 956.4](b) and (c), except for use and maintenance of existing permanent roads, use of existing bridges and existing culverts as skid trail crossings, and maintenance of associated drainage facilities or structures.
  8. No timber harvest activities that may disturb, threaten, or damage known or potential aquatic or wetland habitat for rare, threatened or endangered plants or animals.
  9. No timber harvest activities within the buffer zone of a sensitive species, as defined in 14 CCR 895.1.
  10. No timber harvest activities on soils with High or Extreme Erosion Hazard Rating.
  11. No heavy equipment operation in meadows or wet areas, except use and maintenance of existing roads and associated drainage facilities or structures.
  12. No timber harvest activities during the winter period from October 15 through May 1 or under saturated soil conditions as defined in 14 CCR 895.1 where such activities may result in discharge of waste to waters of the State.
  13. No timber harvest activities involving mechanical site preparation, as defined in 14 CCR 895.1. (Timberland Conversions excepted)
  14. No timber harvest activities involving prescribed burning. (Timberland Conversions excepted)

15. No timber harvest activities that do not meet minimum stocking requirements immediately upon completion of harvest, as defined in 14 CCR 912.7 [932.7, 952.7]. (Timberland Conversions excepted)
16. No timber harvest activities that include, are accompanied by, or followed by post-harvest applications of pesticides.

2. **Conditions:**

- a. The discharger shall comply with the General Conditions described in Part I.B., above.
- b. The Regional Board receives: (1) a copy of a Plan approved by CAL FIRE, or an Notice of Exemption or Emergency accepted by CAL FIRE, that includes all of the above eligibility criteria, and (2) a Certification Notice, signed by the landowner, certifying that the timber harvest activities will comply with the eligibility criteria and conditions for Waiver Category 1, received within 15 days from notice acceptance by CAL FIRE and prior to the start of operations, or at least 30 days prior to the start of operations for a Plan. A Certification Notice is not required for Notices of Exemption and Emergency that meet the eligibility criteria described in Part II A.1.a. above.
- c. The discharger shall comply with all conditions specified in Attachment B, "Monitoring Conditions." Agency Monitoring will be sufficient for this Category providing the discharger complies with CAL FIRE Forest Practice Rules and the criteria specified in Part II A.1.b. above.

**B. CATEGORY 2: EXEMPT OR EMERGENCY TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS THAT DO NOT QUALIFY FOR WAIVER UNDER CATEGORY 1.**

1. **Eligibility Criteria:** Timber harvest activities that comply with the following criteria as identified in the Notice of Exemption or Notice of Emergency accepted by CAL FIRE, for Less Than 3 Acre Conversion Exemptions and Notices of Emergency Timber Operations related to fire salvage:
  - a. The Registered Professional Forester (RPF), after conducting a comprehensive field review of proposed timber activities, has specifically identified the presence or absence of any of the following features or conditions in, or affected by, the proposed exempt or emergency timber harvest activities:
    - aquatic or wetland habitat for salmonids or rare, threatened or endangered species,

- domestic or municipal water use within one mile downstream of the harvest area,
  - soils with high or extreme erosion hazard rating,
  - known slides and unstable areas, including unstable or erodible watercourse banks,
  - changeable channels, overflow channels, inadequate flow capacity, flood prone areas, riparian areas, elevated stream temperatures,
  - all watercourse crossings, including existing crossings and those to be constructed or reconstructed for all Class I-IV watercourses , and existing and proposed near-stream landings and skid trails.
- b. For those Plans where aquatic or wetland habitat for rare, threatened or endangered species is identified and where timber harvest activities may impact such habitat, additional field review has been conducted by a scientist, with a bachelor's or advanced degree in biological sciences and experience in aquatic systems, to determine if the Plan could adversely affect such species or their habitat.
- c. The Notice of Exemption or Notice of Emergency identifies any additional management practices and/or water quality protective measures (beyond the requirements of the current Forest Practice Rules) to address, at a minimum, the features and conditions described in Part II.B.1.a. above (should any exist), winter period operations between October 15 and May 1, and cumulative watershed effects, to assure compliance with the requirements of applicable water quality control plans. The Notice of Exemption or Notice of Emergency incorporates any and all project modifications and mitigation measures recommended by the biological scientist to avoid adverse impacts to rare, threatened or endangered species.
- d. The management practices and water quality mitigation and protective measures specified in the Notice pursuant to subsection "c" above shall include, at minimum, the following: (1) An Equipment Limitation Zone (ELZ) for any and all Class III and Class IV watercourses of at minimum 25 feet where sideslope steepness is less than 30%, and at minimum 50 feet where sideslope steepness is 30% or greater; (2) Any and all crossing facilities on watercourses that support fish will be installed and maintained so as to allow for unrestricted passage of fish and water during all life stages and flow conditions; (3) Any and all culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures concurrently with fill placement; (4) Any and all permanent watercourse crossings and associated fills and approaches shall be installed and maintained to prevent diversion of stream overflow down the road and to minimize erosion of the fill and road prism should the drainage structure become obstructed; (5) Any and all riparian vegetation, other than commercial

species, that is found along watercourses and lakes or that is found within or bordering meadows and wet areas shall be retained and protected during timber harvest activities; and (6) Where seasonal water temperatures are too high to fully support beneficial uses of water in Class I or II waters within or downstream from the logging areas, no trees that provide shade to the waters during critical hours during the summer period shall be cut.

2. **Conditions:**

- a. The Regional Board receives: (1) a copy of a Notice of Exemption or Notice of Emergency accepted by CAL FIRE that includes the information required by Part II.B.1.a.through d., above, and (2) a Certification Notice, signed by the landowner, certifying that the timber harvest activities will comply with all conditions applicable to Waiver Category 2, received within 15 days of notice acceptance by CAL FIRE and prior to the start of operations.
- b. The discharger shall comply with the General Conditions described in Part I.B., above.
- c. The discharger shall notify the Regional Board in writing at least 60 days prior to any proposed aerial application and 30 days prior to any proposed ground application of pesticides. The written notification shall include the type of pesticide, the proposed date(s) of application, the method and area of application, and measures that will be employed to assure compliance with all applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- d. The discharger shall comply with all conditions specified in Attachment B, "Monitoring Conditions." The discharger shall comply with all applicable requirements of the Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2010-0022. The discharger shall comply with additional monitoring and reporting program requirements (including, but not limited to, water quality compliance and/or assessment and trend monitoring) when directed in writing by the Executive Officer.
- e. Upon completion of timber harvest activities and cessation of waste discharges (including pesticides), the discharger shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.

**C. CATEGORY 3: TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CAL FIRE AND FOR WHICH REGIONAL BOARD STAFF HAS FULLY PARTICIPATED IN THE INTERDISCIPLINARY REVIEW TEAM PROCESS (including Timber Harvest Plans, Non-Industrial Timber Management Plans, other Plans, and Amendments).**

**1. Eligibility Criteria:**

- a. Regional Board staff has participated in CAL FIRE's interdisciplinary Review Team process, including an on-site pre-harvest inspection (PHI), except that Regional Board staff attendance at a PHI for an amendment is optional and is required only upon written notification by Regional Board staff.
- b. Additional management practices and/or water quality protective measures (beyond the requirements of the current Forest Practice Rules) are identified, if necessary, during the Review Team process to assure compliance with the requirements of applicable water quality control plans.
- c. Such identified management practices, and/or water quality protective measures are submitted in writing to CAL FIRE by Regional Board staff, or Regional Board staff accepts, in writing, those management practices and/or water quality protective measures proposed by either CAL FIRE or the RPF.
- d. All identified additional management practices, and/or water quality protective measures are incorporated into the Plan as submitted or accepted by Regional Board staff, or as subsequently agreed to in writing by the Executive Officer following dispute resolution.

**2. Conditions:**

The Regional Board receives the following items at least 30 days prior to the start of timber operations: (1) a copy of a Plan approved by CAL FIRE that incorporates all identified additional management practices, and/or water quality protective measures resulting from Regional Board staff participation in CAL FIRE's interdisciplinary Review Team process, and (2) a Certification Notice, signed by the landowner, listing the Plan number and certifying that the discharger believes that the activities are appropriately covered under Waiver Category 3.

- a. For an approved NTMP, the discharger shall submit each Notice of Timber Operations to the Regional Board no less than 30 days prior to commencement of timber harvest activities.



- b. The discharger shall comply with the General Conditions described in Part I.B., above.
- c. The discharger shall notify the Regional Board, in writing, at least 60 days prior to any proposed aerial application and at least 30 days prior to any proposed ground application of pesticides. The written notification shall include the type of pesticide, the proposed date(s) of application, the method and area of application, and measures that will be employed to assure compliance with applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- d. The discharger shall comply with all conditions specified in Attachment B, "Monitoring Conditions." The discharger shall comply with all applicable requirements of the Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2010-0022. The discharger shall comply with additional monitoring and reporting program requirements (including, but not limited to, water quality compliance and/or assessment and trend monitoring) when directed in writing by the Executive Officer.
- e. Upon completion of timber harvest activities and cessation of waste discharges (including pesticides), the discharger shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.

**D. CATEGORY 4: TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CAL FIRE FOR WHICH REGIONAL BOARD STAFF HAS NOT FULLY PARTICIPATED IN THE INTERDISCIPLINARY REVIEW TEAM PROCESS AND WHICH ARE NOT ELIGIBLE FOR A WAIVER UNDER CATEGORY 1 (including Timber Harvest Plans, Non-Industrial Timber Management Plans, other Plans, and Amendments).**

**1. Eligibility Criteria:**

- a. The RPF, after conducting a comprehensive field review of proposed timber operations, has clearly identified in the Plan submitted to CAL FIRE the presence or absence of the following features or conditions in, or affected by, the proposed Plan:
  - aquatic or wetland habitat for salmonids or rare, threatened or endangered species,
  - domestic or municipal water use within one mile downstream of the harvest area,

- soils with high or extreme erosion hazard rating,
  - known slides and unstable areas, including unstable or erodible watercourse banks,
  - changeable channels, overflow channels, inadequate flow capacity, flood prone areas, riparian areas, elevated stream temperatures,
  - all watercourse crossings, including existing crossings and those to be constructed or reconstructed for all Class I-IV watercourses , and existing and proposed near-stream landings and skid trails.
- b. For those Plans where aquatic or wetland habitat for rare, threatened or endangered species is identified and where timber harvest activities may impact such habitat, additional field review has been conducted by a scientist, with a bachelor's or advanced degree in biological sciences and experience in aquatic systems, to determine if the Plan could adversely affect such species or their habitat. For those Plans that propose timber harvest activities on soils with extreme erosion hazard rating, known slides or unstable areas, or proposes any watercourse crossing that involves the placement of more than 500 cubic yards or 25 vertical feet of fill material, additional field review has been conducted or directed by a registered civil engineer or registered engineering geologist, as his/her California license for practicing engineering and/or geology permits, to determine if the Plan could cause or exacerbate the potential for soil erosion or mass soil movement. Field reviews conducted in accordance with a certified programmatic environmental document satisfy these eligibility criteria, if previously reviewed and accepted by the Regional Board.
- c. The approved Plan:
1. Incorporates, as addenda, signed technical reports from qualified professionals when required to be prepared under Part II.D.1.b. above.
  2. Incorporates any additional management practices and/or water quality protective measures (beyond the requirements of the current Forest Practice Rules) to address, at a minimum, the conditions described in Part II.D.1.a and b., above, winter period operations between October 15 and May 1, and cumulative watershed effects to assure compliance with the requirements of all applicable water quality control plans. Incorporates any and all project modifications and mitigation measures recommended by the biological scientist to avoid adverse impacts to rare, threatened or endangered species.
  3. The management practices and water quality protective measures specified in the Plan pursuant to subsection (c)(2) above, shall include, at minimum, the following: (1) An Equipment Limitation Zone (ELZ) for any and all Class III and Class IV watercourses of at minimum 25 feet where sideslope steepness is less than 30%, and at minimum 50 feet

where sideslope steepness is 30% or greater; (2) Any and all crossing facilities on watercourses that support fish will be installed and maintained so as to allow for unrestricted passage of fish and water during all life stages and flow conditions; (3) Any and all culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures concurrently with fill placement; (4) Any and all permanent watercourse crossing and associated fills and approaches shall be installed and maintained to prevent diversion of stream overflow down the road to minimize erosion of the fill and road prism should the drainage structure become obstructed; (5) Any and all riparian vegetation, other than commercial species, that is found along watercourses and lakes or that is found within or bordering meadows and wet areas will be retained and protected during timber harvest activities; (6) Where seasonal water temperatures are too high to fully support beneficial uses of water in Class I or II water within or downstream from the logging areas, no trees that provide shade to the waters during critical hours during the summer period shall be cut.

**2. Conditions:**

- a. The Regional Board receives the following items at least 30 days prior to the start of timber operations: (1) a copy of an approved Plan that meets the eligibility criteria in Part IID.1.a.through c.; and (2) a Certification Notice signed by the landowner stating that the approved Plan accurately represents site conditions, and that reasonable implementation of the approved Plan will assure compliance with Waiver Category 4.
- b. For an approved NTMP, each Notice of Timber Operations shall be submitted to the Regional Board no less than 30 days prior to commencement of timber harvest activities.
- c. The discharger shall comply with the General Conditions described in Part I.B., above.
- d. The discharger shall notify the Regional Board, in writing, at least 60 days prior to any proposed aerial application and at least 30 days prior to any ground application of pesticides. The written notification shall include the type of pesticide, the proposed date(s) of application, the method and area of application, and measures that will be employed to assure compliance with applicable water quality control plans. Subsequent changes to the proposal must be submitted in writing no less than 48 hours prior to pesticide application.
- e. The discharger shall comply with all conditions specified in Attachment B, "Monitoring Conditions." The discharger shall comply with all applicable requirements of the Implementation, Forensic and Effectiveness

Monitoring and Reporting Program No. R5-2010-0022. The discharger shall comply with additional monitoring and reporting program requirements (including, but not limited to, water quality compliance and/or assessment and trend monitoring) when directed in writing by the Executive Officer.

- f. Upon completion of timber harvest activities and cessation of waste discharges (including pesticides), the discharger shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.

**E. CATEGORY 5: TIMBER HARVEST ACTIVITIES ON FEDERAL LANDS MANAGED BY THE USFS (including timber harvest sales, fuels reduction projects, fire salvage harvest, pesticide applications, Forest Stand Improvement and Hazard Tree Removal projects)**

1. **Eligibility Criteria:**

- a. The USFS has conducted a multi-disciplinary review of the timber harvest proposal, including review by watershed specialists, and has specified best management practices, and additional control measures as needed, in order to assure compliance with applicable water quality control plans.
- b. The USFS has conducted a cumulative watershed effects (CWE) analysis, where required or appropriate, and included specific measures needed to reduce the potential for CWEs in order to assure compliance with applicable water quality control plans.
- c. The USFS has allowed the public and other interested parties reasonable opportunity to comment on and/or challenge individual timber harvest proposals.

2. **Conditions:**

- a. The USFS shall submit to the Regional Board copies of final decision documents that contain information documenting compliance with the eligibility criteria at Part II.E.1., above. A copy of applicable final NEPA documents shall be submitted upon written request by Regional Board staff.
- b. The USFS shall comply with all conditions specified in Attachment B, "Monitoring Conditions." The USFS shall also comply with all applicable requirements of Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2010-0022. The USFS shall comply with additional monitoring and reporting program requirements (including, but

not limited to, water quality compliance and/or assessment and trend monitoring) for all projects (except forest stand improvement and hazard tree removal projects) when directed in writing by the Executive Officer. As specified in Attachment B, the USFS is required to conduct effectiveness and forensic monitoring only when: (1) the discharger's cumulative watershed effects analysis indicates that the project, combined with other USFS projects conducted in the watershed over the past 10 years, may cause any watershed or sub-watershed to exceed a threshold of concern as determined by various models (i.e., Equivalent Roded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.). The USFS shall comply with the General Conditions described in Part I.B., above.

- c. Upon completion of timber harvest activities and cessation of waste discharges (including pesticides), the USFS shall seek termination of coverage under the Waiver in accordance with Part III, Termination of Coverage.

### **III. TERMINATION OF COVERAGE**

1. The discharger may terminate coverage under this Waiver for a completed timber harvest activity by submitting to the Regional Board a Notice of Termination Form (NOT). The following criteria, in general, must be satisfied before termination of waiver coverage will be considered by the Executive Officer:

- Timber harvest activities are completed,
- All Category specific eligibility criteria were met,
- All elements of required reporting have been completed,
- Soil disturbed by timber harvest activities has stabilized, and
- Pesticide applications have ceased and are not proposed

The NOT shall be signed by the landowner for nonfederal lands and the Forest Supervisor or District Ranger for federal lands. In signing the NOT, the discharger or USFS representative shall certify that: (1) the timber harvesting activities were conducted in conformance with the approved plan, accepted notice or USFS project requirements, all eligibility criteria specified in the applicable Waiver category and all other applicable provisions of this Waiver, and (2) discharges resulting from the timber harvest activities and pesticide applications were in compliance and will continue to comply with all requirements of applicable water quality control plans.

The Executive Officer shall review the NOT specifically noting compliance with the above criteria. A field inspection may be conducted to verify compliance with

all Waiver criteria and conditions. The Executive Officer shall notify the discharger regarding approval or disapproval of the NOT.

Note: Enrollment in a waiver is required until such time that waste discharges related to timber harvest activities, including pesticides, have ceased.

#### **IV. TERMINATION OF WAIVERS**

1. The Executive Officer shall terminate the applicability of a waiver to specific timber harvest activities if the Executive Officer makes any of the following determinations:
  - a. The proposed timber harvest activities do not comply with the eligibility criteria for the Waiver.
  - b. The timber harvest activities are not in compliance with the applicable conditions of the Waiver.
  - c. The proposed timber harvest activities are reasonably likely to cause or contribute to any violation of an applicable water quality control plan or policy. In making this determination, the Executive Officer shall consider the recommendations of Regional Board staff that participated in the review of the proposed timber harvest activities, if any.
  - d. A timber harvest activity has varied in whole or in any part from the approved Plan (for discretionary approvals) or Notice (for non-discretionary approvals), unless these changes result in better protection of water quality.
2. Upon receipt of notice of termination of applicability of the Waiver, the discharger shall immediately cease all timber harvest activities that may result in discharges to waters of the State, other than activities necessary to control erosion. Upon such notice of termination, the discharger must file a report of waste discharge and applicable filing fee pursuant to CWC section 13260. Timber harvest activities that may result in discharges that could affect the quality of waters of the State may commence only upon enrollment by the Executive Officer under general waste discharge requirements, the adoption by the Regional Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with CWC Section 13264(a).

**ATTACHMENT B  
MONITORING AND REPORTING CONDITIONS  
FOR DISCHARGES ENROLLED UNDER THE  
WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES  
RELATED TO TIMBER HARVEST ACTIVITIES  
PURSUANT TO  
CALIFORNIA WATER CODE SECTION 13269**

This attachment contains Monitoring and Reporting conditions that are applicable to the various timber harvest activity categories specified in Attachment A “Waiver of Waste Discharge Requirements for Discharges related to Timber Harvest Activities” (Waiver). The purpose of these monitoring conditions is to assure compliance with Waiver criteria and conditions, to verify the adequacy and effectiveness of the Waiver, to assist dischargers with implementation and maintenance of water quality protection measures and to identify and correct waste discharges that violate or threaten to violate water quality control plan (Basin Plan) requirements. The attachment specifies conditions that are consistent with California Water Code (CWC) Section 13269(a)(2) and are applicable to Waiver Categories 1 through 5 in Attachment A.

**I. AUTHORITY TO REQUIRE MONITORING**

CWC Section 13269(a)(2) requires a waiver of waste discharge requirements to include as a condition the performance of individual, group, or watershed-based monitoring and the monitoring be designed to support the development and implementation of the waiver program, unless the Regional Board determines, consistent with CWC section 13269(a)(3) that discharges subject to the waiver do not pose a significant threat to water quality. This attachment sets forth monitoring and reporting conditions that comply with CWC Section 13269.

**II. MONITORING DESCRIPTIONS<sup>1</sup>**

**A. Field Verification Monitoring (includes all monitoring types conducted by direct field observation)**

Agency Monitoring – Each timber harvest activity conducted pursuant to approval by the California Department of Forestry (CAL FIRE) and the United States Forest Service (USFS) are subject to compliance monitoring conducted by CAL FIRE (on private lands) and the USFS (on federal lands) to evaluate compliance with CAL FIRE’s Forest Practice Rules or USFS best management

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<sup>1</sup> A multi-agency timber harvest monitoring workgroup (MOU Monitoring Workgroup) has developed a “Joint Report on Monitoring Terms and Authorities” that contains terms, descriptions and criteria relating to water quality related monitoring of timber operations. The descriptions in this section (with the exception of the term “Agency Monitoring”) are derived from the “Joint Report” which was developed by representatives of the participating Regional Boards, CAL FIRE and other agencies.

practices (BMP) guidance documents. CAL FIRE and the USFS have been asked to notify the Regional Board when Agency Monitoring detects violation of CAL FIRE rules or USFS BMP requirements that relate to water quality protection measures.

Implementation Monitoring - Implementation Monitoring consists of detailed visual monitoring of harvested areas and roads/landings prior to the rainy season, with emphasis placed on determining if management measures (such as erosion control measures, riparian buffers) were implemented or installed in accordance with approved timber harvest projects including Waiver eligibility criteria. Implementation Monitoring may include photo-documentation of implemented or installed management measures (photo-point monitoring). Implementation Monitoring is essential to assure that water quality protection measures are in place prior to the onset of significant precipitation. Implementation Monitoring is applied at the project scale. Implementation Monitoring is conducted by the discharger and by regulatory agencies during compliance or completion inspections. BMP implementation monitoring conducted by the USFS is considered to be both Agency Monitoring and Implementation Monitoring for the purposes of this Attachment.

Effectiveness Monitoring – Effectiveness Monitoring consists of monitoring subsequent to harvest to evaluate whether particular management measures are or were effective at achieving desired results. Effectiveness Monitoring may be applied at a range of spatial scales, focusing on specific management measures for multiple rainfall events or multiple years. Effectiveness Monitoring may include visual hillslope monitoring (observations outside of the stream or stream channel, i.e., on the harvested slopes) or visual instream monitoring (evaluation of instream conditions). Effectiveness Monitoring is applied at the project scale. Effectiveness Monitoring is generally conducted by the discharger and by regulatory agencies during site inspections.

Forensic Monitoring - Forensic Monitoring employs visual field detection techniques to detect significant pollution caused by failed management measures, failure to implement necessary measures, legacy timber activities, non-timber related land disturbances and natural sediment sources. Forensic Monitoring may also include photo-point monitoring to document pollution sources. Forensic Monitoring is most successful when criteria such as storm events of particular size are used to trigger field investigations for timely detection and repair of controllable sediment sources. Forensic Monitoring is typically applied at the sub-watershed or project scale. Forensic Monitoring is generally conducted by the discharger and by agencies during periodic compliance inspections.

Water Quality Compliance Monitoring – Water Quality Compliance Monitoring employs water column sampling to determine whether waste discharges



(sediment, turbidity, temperature and pesticide concentrations) from timber harvest activities are in compliance with Basin Plan standards. In most instances, it is necessary to collect pre-project data and/or establish reference or control sites to make compliance monitoring successful. Water Quality Compliance Monitoring is typically applied at the sub-watershed or project scale focusing on the effects of a single project for a period greater than the active life of the project. Water Quality Compliance Monitoring is generally required of and is the responsibility of the discharger but may be conducted by regulatory agencies in response to complaints or as follow-up to violations.

Assessment and Trend Monitoring – Assessment Monitoring is used to characterize existing water quality or related stream conditions on a watershed scale at a discrete instant or over a defined time period. Examples include monitoring to determine reference or baseline conditions, determine existing beneficial uses, provide information for cumulative watershed effects analyses in order to develop mitigation measures for timber harvest activities or other projects in a given watershed, and provide information to select sites for restoration and/or remedial work to improve water quality.

Trend Monitoring is used to characterize water quality conditions over time. Trend Monitoring is typically applied at a watershed scale, focusing on the combined effects of all past and present watershed management activities over a period of time. Examples of trend monitoring objectives include; characterize watershed conditions resulting from combined effects of land use activities over time, determine whether Basin Plan water quality objectives are achieved and maintained over time and, in impaired waterbodies, assist in restoration or remedial work to maximize benefits to water quality. Assessment and Trend Monitoring efforts are the most intensive and costly monitoring types and the monitoring, to be scientifically valid, must occur over a long period of time and take into account all waste sources and natural inputs in the watershed. Assessment and Trend Monitoring is usually conducted by the discharger but may, in rare instances and when funds are available, be conducted by regulatory agencies.

## **B. Waiver Compliance Monitoring (Waiver condition monitoring)**

Waiver Compliance Monitoring is non-field monitoring submitted by the discharger to verify compliance with all applicable timber waiver criteria and conditions. Attachment A contains conditions that require dischargers (landowner for non-federal lands, Forest Supervisor or District Ranger for federal lands) enrolled in Categories 2, 3, 4, and 5 to sign and submit a “final certification” that certifies that:

- Timber harvest activities were conducted in conformance with the approved plan or accepted notice (for private lands) and with all applicable provisions of the waiver.
- Discharges resulting from the timber harvesting activities and pesticide applications were in compliance or expected to be in compliance with all requirements of applicable water quality control plans.

### **III. MONITORING CRITERIA**

Site-specific factors must be considered when determining the type of monitoring to be required for timber harvest activities. Site-specific determinations should focus primarily on the threat to water quality, taking into account the effectiveness of monitoring, monitoring suitability, and access. In general, the rigor and complexity of monitoring increases as the threat to water quality increases.

**A. Threat to Water Quality** – Threat to water quality is a function of site-specific characteristics that, individually or in combination, can trigger the need for increased levels of monitoring. Under each characteristic listed below, examples of conditions that correspond to an increased threat to water quality are provided.

1. Distribution and Sensitivity of the Beneficial Uses of Water
  - Presence of domestic water supplies
  - Presence of aquatic species (including listed species)
  - Close proximity of operations to other critical beneficial uses or sensitive receptors
2. Current Water Quality Conditions
  - Existing TMDLs or 303(d) listings
  - Documented non-compliance with Basin Plan standards
  - Known or suspected watershed impacts
3. Physical Setting
  - Unstable geologic setting / steep slopes
  - Erodible soils
  - Existing landslides or active erosion sites
  - Roads or watercourse crossings in poor condition
  - Harsh climates and/or intense precipitation regimes
4. Type and Scope of Proposed Activities
  - Intense silvicultural and/or yarding methods
  - Intensity of site preparation and/or road construction
  - Winter operations and/or “alternative” or “in lieu” practices
  - Operations in or near watercourses and flood-prone areas

**B. Water Column Monitoring Suitability** – The suitability of water column monitoring is a function of various factors related to the feasibility of conducting monitoring. In some cases, monitoring that is considered necessary may be infeasible due to factors such as: lack of available and/or appropriate sampling locations, inadequate streamflow regime, difficult access, safety concerns, potential for vandalism, and potential for equipment damage or loss. In some situations, bioassessment and/or physical stream condition evaluation or monitoring may provide a better indication of potential water quality and beneficial use impacts than water column sampling. Bioassessment monitoring should be approved, by the Executive Officer, where it provides the most accurate and useable information or where water column monitoring cannot be feasibly conducted due to safety, access or other factors. Water column monitoring for sediment (the primary pollutant in timber related discharges) is complicated by the fact that sediment occurs naturally, is in runoff (discharged from) non-timber related land use activities, and may be elevated due to “legacy” timber harvesting (logging conducted prior to improved CAL FIRE and USFS processes).

**C. Watercourse Assessment for “High Harvest” Watersheds (development and submittal)** - A Watercourse Assessment shall be conducted at low streamflow conditions and submitted to the Regional Board when a timber harvest activity is proposed in a Class I CalWater Planning Watershed where timber harvest activities over the last 10 years **meet or exceed the following criteria:**

- 50 percent of the watershed area has been harvested, and even-aged management prescriptions constitute 50 percent of the harvested areas.
- 40 percent of the watershed area has been harvested, and even-aged management prescriptions constitute 60 percent of the harvested areas.
- 30 percent of the watershed area has been harvested, and even-aged management prescriptions constitute 70 percent of the harvested areas.

The Watercourse Assessment shall be submitted to the Executive Officer with the Certification Notice or as soon as possible thereafter following the low streamflow period. The Executive Officer will evaluate the Watercourse Assessment and will determine the need for additional monitoring requirements including consideration of Water Quality Compliance and Assessment/Trend monitoring. The Watercourse Assessment shall include, at a minimum, the following:

1. A topographic based map with information required by California Board of Forestry and Fire Protection (BOF) Technical Rule Addendum No. 2 (2005

BOF Forest Practice Rules) and indicating the location of watercourse assessment monitoring locations described in 2., below. The map shall also include the locations of photo-documentation points, where required.

2. A detailed report, prepared by a qualified professional<sup>1</sup>, describing the condition of all Class I watercourses in the CalWater Planning Watershed, both upstream and downstream of the proposed timber harvest area. The report shall include, but not be limited to, the following:
  - Gravel Embeddedness – Description (based upon visual observations) of the degree gravel is embedded with sand or finer sediments. Photo-documentation required.
  - Pool Sedimentation – Description (based upon visual observations) of degree of sediment depositions in pools. Photo-documentation required.
  - Stream Channel Aggradation – Degree that stream channel has been raised by sedimentation.
  - Streambank Cutting, Mass Wasting and Stream Downcutting – Description of streambank condition(s) – Photo-documentation required.
  - Stream-Side Vegetation – Description of stream-side vegetation.
  - Recent Flood History – Description of unusually high recent flows and whether these high flows were related to timber harvest activities.

The above watercourse conditions shall be evaluated for every Class I watercourse within the CalWater Planning Watershed area that may be impacted by the proposed timber harvest activity. The topographic map, detailed report and required photo-documentation must be submitted at least 30 days prior to start of proposed timber harvest activities. The Executive Officer may require development and submittal of a Watershed Assessment for any timber harvest activity that poses a significant threat to water quality.

#### **IV. MONITORING CONDITIONS**

Each discharger enrolled in the Waiver contained in Attachment A shall conduct monitoring as specified in this attachment (as described below) and as required in the Implementation, Forensic and Effectiveness Monitoring and Reporting Program Order No. R5-2010-0022.

- A. Agency Monitoring<sup>2</sup>** –Waiver Category 1 through Category 5 shall be subject to Agency Monitoring. Dischargers enrolled in Waiver Category 1 and Category 5 (for minor/exempt projects only) need only be subject to Agency Monitoring.

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<sup>1</sup> “Qualified professional” means a person with the appropriate training and/or licensing to prepare technical reports designed to prevent or minimize the discharge of waste and to conduct site inspections.

**B. Implementation Monitoring<sup>2</sup>** – Dischargers shall conduct Implementation Monitoring as follows: (1) all Notices of Emergency or Exemption seeking coverage under Waiver Category 2, (2) THPs, NTMPs and other plans submitted and approved by CAL FIRE seeking coverage under Waiver Category 3 or 4; and (3) timber harvest proposals approved by the USFS (other than Forest Stand Improvement and/or Hazard Tree Removal Projects) seeking coverage under Waiver Category 5. Implementation photo-point monitoring will be required when the conditions listed in Attachment A, Category 4, Eligibility Criteria b. for soils, unstable areas and large watercourse crossings are present. Implementation photo-point monitoring may also be required if directed, in writing, by the Executive Officer. Implementation monitoring is considered the most critical monitoring type with respect to preventing water quality impairment.

**C. Effectiveness and Forensic Monitoring<sup>2</sup>** – Dischargers shall conduct visual Forensic and Effectiveness Monitoring, **in addition to Implementation Monitoring**, for the following: (1) Waiver Category 2 Emergency Notices involving fire salvage only, (2) Waiver Category 3 and 4 THPs, NTMPs and plans and (3) Waiver Category 5 timber sales or projects. Dischargers conducting timber harvest activities under Waiver Categories 3 and 4 (nonfederal lands) that meet all the following criteria will **not** be required to conduct Effectiveness and Forensic Monitoring:

- No constructed or re-constructed Class I, II or Class IV (with domestic use) watercourse crossings.
- No ground based equipment operations within Class I, II or IV (with domestic use) watercourse protection zones.
- No winter operations within any Class I, II or IV (with domestic use) watercourse protection zones or on areas classified high or extreme erosion hazard rating.
- No road construction or re-construction within 500 feet upslope of a Class I, II or IV (with domestic use) watercourse.
- No landing construction or re-construction within Class I, II or IV (with domestic use) watercourse protection zones.
- No heavy equipment operations on areas classified High or Extreme Erosion Hazard Rating that have potential to impact water quality.
- No “in-lieu” or “alternative” practices<sup>2</sup> that have potential to impact water quality.
- No ground-based equipment used on slopes over 65 percent or slopes over 50 percent classified as High or Extreme Erosion Hazard Rating.

The USFS shall conduct Effectiveness and Forensic monitoring when: (1) the discharger’s cumulative watershed effects analysis indicates that the project, combined with other USFS projects conducted in the watershed over the past 10 years, may cause any watershed or sub-watershed to exceed a threshold of

concern as determined by various models (i.e., Equivalent Roded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.).

**D. Water Quality Compliance Monitoring<sup>2</sup>** – Dischargers shall conduct Water Quality Compliance Monitoring **in addition to Implementation, Effectiveness and Forensic Monitoring**, upon notice by the Executive Officer, when, for example, any of the following conditions are detected or reported:

- General or widespread failure of an active project to comply with CAL FIRE Forest Practice Rules or USFS BMP guidance documents or Waiver Criteria and Conditions regarding implementation of management measures relating to water quality protection.
- General or widespread failure of management measures relating to water quality protection due to improper implementation, installation or inadequate maintenance.
- Identification of discharges or threatened discharges of sediment and/or pesticides or increases in water temperature resulting from timber harvest activities covered under the Waiver that are likely to cause or contribute to a violation of the applicable water quality control plan, including water quality objectives listed in Attachment 1.

Water Quality Compliance Monitoring Programs will be developed and issued by the Executive Officer on a site-specific basis. Water Quality Compliance Monitoring may be directed by the Executive Officer as a result of staff review of a Watercourse Assessment for “High Harvest” Watersheds submitted in accordance with Part III.C of this attachment.

**E. Assessment and/or Trend Monitoring<sup>2</sup>** – Dischargers shall conduct Assessment and/or Trend Monitoring **in addition to Implementation, Effectiveness and Forensic Monitoring and either in concert with or in lieu of Water Quality Compliance Monitoring**, upon notice by the Executive Officer, when, for example, any of the following conditions occur:

- Significant and recurring violations of sediment, turbidity, temperature or pesticide water quality control plan objectives in a Class I CalWater Planning Watershed.

<sup>2</sup> The Executive Officer may increase or decrease the monitoring level for specific timber harvest proposal(s) as site conditions and risk to water quality dictates.

- Identification of an immediate and long-term threat to critical downstream beneficial uses resulting or that could result from timber harvest activities conducted in a CalWater Planning Watershed.
- Harvesting in areas tributary to 303(d) listed waterbodies where timber harvest activities threaten to significantly delay recovery of the waterbody.

Assessment and/or Trend Monitoring Programs will be developed and issued by the Executive Officer on a site-specific basis. Assessment and/or Trend Monitoring may be directed by the Executive Officer as a result of staff review of a Watercourse Assessment for "High Harvest" Watersheds submitted in accordance with Part III.C of this attachment.

#### **F. General Reporting Requirements**

Submission of Monitoring Reports and Data – The discharger shall submit all required monitoring reports to the Regional Board in accordance with the reporting requirements specified in Implementation, Forensic and Effectiveness Monitoring and Reporting Program No.R5-2010-0022 and any other monitoring and reporting program issued by the Executive Officer. The discharger shall also report monitoring data and results, in a timely manner, for all water quality related monitoring conducted independent of the requirements of this Waiver.

Violation and Failure Reporting - The discharger shall report as soon as possible by telephone, but no later than 48 hours after detection of any of the following:

- Discharge(s) resulting in violation of an applicable Basin Plan requirements
- Failure of a major management measure(s) (large fill area, watercourse diversion, major road or skid trail failure within or adjacent to a watercourse protection zone)
- New landslide activity that may discharge sediment to watercourses
- Violation(s) of eligibility criteria or conditions specified in Attachment A.

A written report regarding such violation(s) and/or management measure failure(s) including planned or implemented corrective actions shall be submitted within 14 days following detection. The written report shall include all information specified in the Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2010-0022.

**V. MONITORING AND REPORTING PROGRAM ISSUANCE**

The Executive Officer shall issue, to all dischargers upon their enrollment in the Waiver, Implementation, Forensic and Effectiveness Monitoring and Reporting Program No. R5-2010-0022. The Executive Officer may issue site-specific and individually developed Water Quality Compliance and Assessment/Trend watershed scale monitoring and reporting programs in accordance with these Monitoring and Reporting Conditions (Attachment B). The Executive Officer may also revise and re-issue Monitoring and Reporting Programs at any time. The discharger shall comply with all Monitoring and Reporting Programs issued under this Waiver.



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ATTACHMENT C  
**IMPLEMENTATION, FORENSIC AND EFFECTIVENESS  
MONITORING AND REPORTING PROGRAM  
ORDER NO. R5-2010-0022  
FOR  
INDIVIDUAL DISCHARGERS  
UNDER  
WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES RELATED TO TIMBER HARVEST ACTIVITIES**

This Monitoring and Reporting Program (MRP) Order presents requirements for visual field monitoring of individual timber harvest projects enrolled in the Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities (Waiver). This MRP is issued pursuant to Water Code Sections 13267 and 13269(a). This MRP implements conditions required by the Waiver and the Monitoring and Reporting Conditions (Attachment B) of Regional Board Order R5-2010-0022 for conducting Implementation, Forensic and Effectiveness monitoring for timber harvest activities enrolled in the Waiver under Categories 2 through 5. All timber harvest activities enrolled under Waiver Categories 2 through 5 shall comply with this MRP Order unless a revised MRP is issued by the Executive Officer.

This Monitoring and Reporting Program has been developed to assure compliance with requirements of applicable water quality control plans (Basin Plans) and to verify the adequacy and effectiveness of the Waiver's conditions.

**INSPECTION PLAN**

The discharger shall prepare and implement an Inspection Plan for evaluating the implementation and effectiveness of management measures installed to comply with Waiver eligibility criteria and conditions for the following:

- Accepted Exemption and Emergency Notices (Category 2 only), Timber Harvest Plans (THPs), Non-industrial Timber Management Plans (NTMPs), and other Plans approved by the Department of Forestry and Fire protection (CAL FIRE)
- Sales and projects approved by the United States Forest Service (USFS) except Forest Stand Improvement and Hazard Tree Removal projects

The Inspection Plan shall be designed to ensure that management measures are installed and functioning prior to rain events, that the measures were effective in controlling sediment discharge sources throughout the winter period, and that no new sediment sources developed. The Inspection Plan shall include a monitoring point

(inspection location) site map, for THPs and timber sale projects that exceed 100 acres in size. The site map shall include monitoring points (inspection locations) to be visited before, during and after the winter period. Monitoring points are further described as follows:

- *Visual Monitoring Points* - Visual monitoring points shall be delineated on the monitoring point site map and include roads, watercourse crossings, landings, skid trails, water diversions, known or suspected landslides and all accessible watercourse confluences.
- *Photo-Point Monitoring Points* – Photo-point monitoring points shall be delineated on the monitoring point site map and shall be identified in the field by use of rebar, flagging or other method that will last throughout the active discharge period of the proposed project. Implementation photo-point monitoring is automatically required when conditions listed for soils, unstable areas and large watercourse crossings in Category 4, Eligibility Criteria b. are present. Forensic photo-point monitoring is required when a significant discharge of sediment is detected or when failed management measures cause or may cause the release of 10 cubic yards (or more) of sediment to watercourses. Photo-point monitoring is required when Effectiveness Monitoring indicates that there were management measure failure(s) that resulted in a significant discharge of sediment to a Class I or Class II watercourse. Effectiveness photo-point monitoring shall include photos of streambed conditions immediately downstream of areas where significant discharges of sediment occurred. Monitoring points for Category 3 (nonfederal lands) will be determined during the pre-harvest inspection when Regional Board staff is present.

Inspection Plans shall be maintained and updated as needed by the discharger and/or agents thereof. Inspection Plans shall be submitted to the Regional Board upon request, in writing, by the Executive Officer, and those Inspection Plans shall be made available to the public.

## **SITE INSPECTIONS**

**Implementation Monitoring** - Implementation monitoring site inspections conducted prior to the winter period shall be designed to assure that management measures are properly installed. A “final compliance report” or “work completion report” inspection, conducted by CAL FIRE prior to the winter period and after cessation of active harvesting and road construction, may be substituted for the required pre-winter inspection if the inspection covers the entire plan area and the report is submitted to the Regional Board before December 1.

IMPLEMENTATION, FORENSIC AND EFFECTIVENESS MONITORING AND REPORTING PROGRAM NO. R5-2010-0022 FOR INDIVIDUAL DISCHARGERS UNDER THE WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES RELATED TO TIMBER HARVEST ACTIVITIES

**Forensic Monitoring** – Forensic monitoring inspections shall be conducted during the winter period and shall be designed to detect potentially significant sources of pollution such as failed management measures or natural sources. The goal of winter forensic monitoring is to locate sources of sediment production in a timely manner so that rapid corrective action may be taken where feasible and appropriate. Winter forensic monitoring may also assist in determining cause and effect relationships between hillslope activities (harvesting, road construction etc.), hydrologic triggers and instream conditions. When conducting forensic monitoring, the discharger shall also perform visual monitoring of roads, watercourse crossings, landings, skid trails, and known landslides to the extent feasible.

**Effectiveness Monitoring** – Effectiveness monitoring inspections shall be conducted following the winter period and shall be designed to determine whether hillslope conditions created by timber operations are resulting in instream conditions that visually appear to comply with water quality objectives and protect instream beneficial uses, determine whether Waiver criteria and conditions, on a programmatic scale, are adequately protecting water quality and instream beneficial uses and assist in development of waiver conditions and adaptive management processes to assure compliance with Basin Plan requirements.

The type of monitoring to be conducted for an individual timber harvest project (Implementation, Forensic and Effectiveness monitoring) shall be determined by the criteria listed in Waiver Attachment B, Part IV “Monitoring Conditions” or as otherwise directed, in writing, by the Executive Officer. Site inspections shall be conducted by qualified professionals<sup>1</sup>.

## INSPECTION SCHEDULE

**Implementation Monitoring** - Implementation monitoring inspections shall be initiated once the startup of timber harvest activities begin within an area covered by a Notice or Plan (nonfederal lands) or sale or project (federal lands) and shall continue throughout the duration of the project while timber harvest activities occur and until discharges associated with timber harvest activities cease. Implementation inspections shall be conducted as follows:

- *Where Timber Harvest Activities Have Not Yet Commenced*  
No inspections required.
- *Where Timber Harvest Activities Have Commenced and No Winter Operations*

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<sup>1</sup> “Qualified professional” means a person with the appropriate training and/or licensing to prepare technical reports designed to prevent or minimize the discharge of waste and to conduct site inspections.

*are planned.*

A pre-winter Implementation inspection shall be completed **by October 15 (but not later than November 15) of each year** to assure that management measures are in place and secure prior to the winter period. Note: As indicated above, an inspection conducted by CDF may satisfy this pre-winter period inspection requirement.

- *Where Timber Harvest Activities Have Commenced and Winter Operations are Planned*

A pre-winter implementation inspection shall be completed **by October 15 (but not later than November 15) of each year** to assure that management measures, for areas not subject to winter operations, are in place and secure prior to the winter period. An Implementation inspection shall be completed **immediately following cessation of winter period operations**, in areas where winter operations occurred, to assure management measures are in place and secure.

**Forensic Monitoring** - Forensic monitoring inspections shall be conducted during the winter period to determine the condition of installed management measures and to detect sediment discharges resulting from failed management measures and general timber harvest activities. Forensic monitoring shall take place at least two times during the winter period, as follows:

- **Once**, during or within 12 hours following a 24-hour storm event of at least 2 inches (of rainfall) and after 5 inches (of total precipitation) has accumulated **after November 15 and before April 1**. Inspections that cannot be conducted during or within 12 hours of such a storm event (due to worker safety, access or other uncontrollable factors) shall be conducted as soon as possible thereafter.
- **Once**, during or within 12 hours following a 24-hour storm event of at least 2 inches (of rainfall) and after 15 inches (of total precipitation) has accumulated **after November 15 and before April 1**. Inspections that cannot be conducted during or within 12 hours of such a storm event (due to worker safety, access or other uncontrollable factors) shall be conducted as soon as possible thereafter.

Additional Forensic Monitoring inspections shall be conducted if the following "observation trigger" occurs:

- A noticeable significant discharge of sediment is observed at any time in any Class I or Class II watercourse. Photo-point monitoring shall be conducted when such discharge is the result of failed water quality protection management

measure(s) or lack of implementation of such measure(s).

Follow-up forensic monitoring inspections shall be conducted until corrective action is completed to repair or replace failed management measures and/or significant sediment discharges have ceased.

**Effectiveness Monitoring** - An Effectiveness monitoring inspection shall be conducted as soon as possible following the winter period to determine the effectiveness of management measures in controlling discharges of sediment and in protecting water quality. The Effectiveness monitoring inspection shall take place as follows:

- **After March 15 and before June 15** to assess the effectiveness of management measures designed to address controllable sediment discharges and to determine if any new controllable sediment sources have developed.

The Effectiveness monitoring inspection shall include visual inspection of hillslope components (roads, landings, skid trails, watercourse crossings and unstable areas). If the visual inspection of hillslope components reveals significant management measure failure(s), a visual inspection of instream components (bank composition and apparent bank stability, water clarity and instream sediment deposition) shall also be conducted.

## REPORTING

**Annual Reporting** - The discharger shall submit an Annual Monitoring Report to the Executive Officer by **July 15** for inspections covering the previous winter period for every year a timber harvest activity is enrolled in the Waiver. An Annual Monitoring Report need not be submitted for timber harvest activities that were started after the winter period until the following year. The Annual Monitoring Report shall, at a minimum, include the date and type of each inspection, the inspector's name and title, the location of each inspection including the name and number of the plan, notice, sale or project, and the title and name of the person submitting the report, the inspection findings (including any photographs taken with date and time clearly delineated) and shall describe how the discharger has complied with the requirements of this MRP. A discharger may submit a single Annual Monitoring Report for all timber harvest activities conducted for the year under a CAL FIRE approved Sustained Yield Plan. The timely submittal of a USFS BMP evaluation report will satisfy the reporting requirement for implementation monitoring for federal lands.

**Violation Reporting** - The discharger shall report as soon as possible by telephone, but no later than 48 hours after detection, any violation or suspected violation of an applicable water quality control plan requirement, failure of a major management measure (large fill area, watercourse diversion, major road or skid trail failure within or

ATTACHMENT C  
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adjacent to a watercourse protection zone), any new landslide activity that may discharge sediment to watercourses, and any violation of Eligibility Criteria or Conditions listed in the Waiver. A written report regarding such violation(s) or management measure failure(s) shall be submitted within 14 days following detection and shall include the following:

- Date violation(s) or failure(s) was discovered
- Name and title of person(s) discovering violation(s) or failure(s)
- Map indicating location of violation(s) or failure(s)
- Nature and extent of violation(s) or failure(s)
- Photos of site characterizing violation(s) or failure(s)
- Corrective management measures implemented to date
- Implementation schedule for additional corrective actions
- Signature and title of person preparing report

The Executive Officer may modify or rescind this MRP at any time, or may modify and issue an MRP as to a specific discharger.

Ordered by

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PAMELA C. CREEDON, Executive Officer

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