

ATTACHMENT N
WASTE DISCHARGE PROHIBITION INFORMATION FOR ACTIVITIES
IN 100-YEAR FLOODPLAINS OF THE TRUCKEE RIVER OR LITTLE
TRUCKEE RIVER HYDROLOGIC UNITS, OR STREAM ENVIRONMENT
ZONES AND 100-YEAR FLOODPLAINS OF THE LAKE TAHOE
HYDROLOGIC UNIT
AND
GRANTING OF A PROHIBITION EXEMPTION FOR SLASH PILING AND
BURNING IN STREAM ENVIRONMENT ZONES

Conditional Waiver of Waste Discharge Requirements from Waste Discharges
Resulting from Timber Harvest and Vegetation Management Activities in the
Lahontan Region

To protect beneficial uses and achieve water quality objectives, the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains waste discharge prohibitions applicable to the discharge of waste to lands within 100-year floodplains in the Truckee River, Little Truckee, and Lake Tahoe Hydrologic Units (HUs), and prohibitions against waste discharges in Stream Environment Zones (SEZs) in the Lake Tahoe HU. These prohibitions may apply to certain Activities conducted in these areas.

This document:

1. Provides information on applicable waste discharge prohibitions from the Basin Plan.
2. Makes findings and grants a prohibition exemption for slash piling and burning in Tahoe Basin SEZs for certain Activities.
3. Specifies the types of Activities that may proceed in 100-year floodplains and SEZs that do not violate applicable waste discharge prohibitions.

1. Basin Plan Waste Discharge Prohibitions and Exemptions

Truckee River and Little Truckee HU

100-year Floodplains

Chapter 4 (pages 4.1-16) of the Basin Plan specifies the following discharge prohibition:

"The discharge or threatened discharge, attributable to human activities, of waste to lands within the 100-year floodplain of the Truckee River, Little Truckee River, and their tributaries is prohibited."

Lake Tahoe HU

100-year Floodplains

Chapter 5 (page 5.2-1) of the Basin Plan specifies the following discharge prohibitions for activities within 100-year floodplains:

“The discharge attributable to human activities of any waste or deleterious material to land below the highwater rim of Lake Tahoe or within the 100-year floodplain of any tributary to Lake Tahoe is prohibited.”

Stream Environment Zones

Chapter 5 (page 5.2-1) of the Basin Plan specifies the following discharge prohibitions for activities within SEZs of the Lake Tahoe HU:

- 1) “The discharge attributable to human activities of any waste or deleterious material to Stream Environment Zones (SEZs) in the Lake Tahoe HU is prohibited.”

Chapter 5 (page 5.2-2) provides that exemptions may be granted for a number of circumstances, the following of which are most applicable to Activities regulated by the the 2024 Timber Waiver (as numbered in the Basin Plan):

- 1) “For erosion control projects, habitat restoration projects, wetland rehabilitation projects, SEZ restoration projects, and similar projects, programs, and facilities, if all of the following findings can be made:
 - a) There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment below the highwater rim of Lake Tahoe, within the 100-year floodplain, or within the SEZ; and
 - b) Impacts are fully mitigated.”
- 3) “For public service facilities if all of the following findings can be made:
 - a) The project is necessary for public health, safety or environmental protection;
 - b) There is no reasonable alternative, including spans, that avoids or reduces the extent of encroachment;
 - c) The impacts are fully mitigated;
 - d) SEZ lands are restored in an amount 1.5 times the area of SEZ developed or disturbed by the project; and
 - e) Wetlands are restored in an amount at least 1.5 times the area of wetland disturbed or developed. Certain wetlands may require restoration of greater than 1.5 times the area disturbed or developed.”

- 5) “For repair or replacement of existing structures, provided that the repair or replacement does not involve the loss of additional lake habitat, or SEZ or floodplain function. Prior to granting any such exemption, the Regional Board shall require that all applicable and practicable control and mitigation measures have been incorporated into the project to minimize any discharges of wastes to surface waters during or following construction.”

According to the Basin Plan, impacts to SEZs due to erosion control projects, habitat restoration projects, wetland rehabilitation projects, or SEZ restoration projects do not need to meet the 1.5:1 restoration requirement.

2. Findings Supporting the Granting of Discharge Prohibition Exemption for SEZ Slash Piling and Burning in the Lake Tahoe HU Conducted in Accordance with Category 6 of Timber Waiver and Attachment Q

Timber Waiver enrollees may propose slash piling and burning within SEZs in the Lake Tahoe HU for the purpose of erosion control, habitat restoration, wetland rehabilitation, SEZ restoration projects, and similar projects. The Basin Plan prohibits the discharge of waste or deleterious materials within SEZs, unless the Water Board grants an exemption to this prohibition. To grant an exemption to waste discharge prohibitions in the Basin Plan, the Water Board must make findings to ensure that exemption criteria are met. The 2024 Timber Waiver Attachment Q requires Dischargers to implement specific management measures for slash piling and burning within SEZs to protect sensitive soils and water quality; these management measures are those adopted by the Water Board to meet exemption criteria for the waste discharge prohibition to SEZs.

To allow for slash piling and burning Activities under this 2024 Timber Waiver, the Water Board makes the following findings for an exemption to the Basin Plan prohibitions against the discharge of waste or deleterious materials within SEZs for erosion control projects, habitat restoration projects SEZ restoration project, and similar projects, program, and facilities based on the following exemption criteria.

a. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment within SEZ.

To reduce the threat of a catastrophic wildfire, restore forest health, or remove encroaching conifers within SEZs, proposed Activities may include the management of dead, dying, and diseased vegetation, ladder fuels, or other excessive and undesirable vegetation that lacks commercial value and may exist in locations where the relocation of such vegetative materials to locations outside of SEZs is impractical, cost prohibitive, or would potentially result in greater impacts to SEZs through the use of mechanical equipment. In these scenarios, the on-site piling and burning of vegetative matter is the only reasonable alternative to reducing biomass from SEZ to achieve the purpose of SEZ restoration and fuels reduction. Dischargers must be allowed to pile and burn slash within SEZs, or else forest health will not improve, and fuels may not otherwise be removed, thus resulting in a continued fire hazard.

For the purpose of this exemption, slash piling and burning within SEZs is limited to Activities conducted manually by hand crews, in order to reduce or avoid the extent of encroachment by vehicles and road construction into SEZs. The use of hand crews within SEZs to remove the threat of a catastrophic wildfire and improve SEZ health involves the labor-intensive piling and burning of dead and dying fuels. To effectively manage vegetation targeted for removal in SEZs, Burn Piles must be piled and later burned due to safety limitations placed on hand crews to move the slash acceptable distances outside of an SEZ. Alternately, the use of ground-based mechanical equipment to remove the slash from SEZs may result in greater impacts than pile burning, due to potential compaction and disturbance of sensitive SEZ soils.

Proposed Activities in SEZs are designed to reduce surface and ladder fuels, reduce the potential loss of riparian and SEZ habitat through catastrophic fire, and to reduce stand mortality by reducing stand density, thus reducing competition for water and nutrients and increasing resistance to drought, insect invasions, and disease. Additionally, aspen regeneration Activities in SEZ that reduce encroaching conifers in aspen stands and meadows are designed to restore riparian species dominance within these areas, and restore natural functionality within the treatment areas.

b. The impacts are fully mitigated.

Attachment Q, "Required Management Actions for Pile Burning within Stream Environment Zones to Qualify for a Basin Plan Prohibition Exemption under Timber Waiver Category 6," describes the specific management actions, which, when implemented in conjunction with the requirements of this Timber Waiver, will ensure that significant effects are avoided. No more than 15% of an acre, or SEZ/WBBZ contiguous area if smaller than one acre, can have burn scars at any time unless the scars have vegetative recovery (as defined in Attachment A). By limiting the extent of burn scars allowed within the SEZs at any given time, these requirements provide assurance that impacts are mitigated. Burn scars must have Vegetative and Soils Surface Recovery (as defined in Attachment A) before any additional burning may occur. Timber Waiver Attachment Q requires that native duff, or organic mulch and seed, be raked into burn scars to a specified coverage percentage if vegetative recovery of the burn scar has not occurred within two growing seasons. This treatment can be effective in reducing erosion and accelerating native plant cover restoration following SEZ pile burning.

The 2024 Timber Waiver requires Dischargers to verify that the implemented BMPs are successful in avoiding significant impacts to soil stability, soil productivity, and riparian plant growth. Results from this monitoring will be used to either support the current BMPs, or to modify them through an adaptive management strategy to provide additional protection and mitigation measures in SEZs. The Timber Waiver also requires 100 percent of the BMPs associated with all project activities be properly implemented and functional. The Timber Waiver requires Dischargers to monitor the effectiveness of their BMPs and identify areas that need to be strengthened, and prescribes Forensic

Monitoring to determine the source of any impact or potential impact in order to correct the problem.

This 2024 Timber Waiver mandates that no more than 30 percent of an SEZ acre may be covered in burn piles and only 15 percent of any SEZ acre may have burn scars at any time that are not in a stage of vegetative recovery (Attachment Q). Piles need to cure and are generally burned within two or three years after being built. The piling and burning in this manner limits the overall disturbance, provides conservation of biomass, and enhances vegetative recovery.

PROHIBITION EXEMPTION GRANTED

Based on Findings made here, and the requirements of the 2024 Timber Waiver, the Water Board hereby grants an exemption to the Basin Plan prohibition for waste discharge attributable to human activities of any waste of deleterious materials to SEZs for the placement and burning of slash piles within SEZs for erosion control projects, habitat restoration projects, wetland rehabilitation projects, SEZ restoration projects, and similar projects, programs, and facilities proposed in 2024 Timber Waiver Category 6 covered Activities, as long as those Activities adhere to the requirements of Attachment Q. To comply with this SEZ prohibition exemption, the Discharger must not exceed the slash piling and burning limitations specified in these Findings and Attachment Q, and the Discharger must include applicable project information in its Category 6 application to describe that it will not exceed these limitations.

3. Activities Not Granted a Discharge Prohibition Exemption in the 2024 Timber Waiver

Activities listed below in Table N1, when conducted in compliance with the 2024 Timber Waiver and the conditions specified in Table N1, are not in conflict with the above cited waste discharge prohibitions for 100-year floodplains and SEZ and do not require the Water Board to grant exemptions. Therefore, Activities specified in Table N1 are not granted a prohibition exemption and may proceed as part of Activities authorized under this 2024 Timber Waiver without additional authorization. Proposed Activities that do not comply with the conditions in Table N1 require Discharger to request an Activity-specific exemption according to the Basin Plan.

Table N1: Timber Harvest and Vegetation Management Activities within SEZs and 100-year Floodplains in the Truckee River, Little Truckee River and Lake Tahoe Hydrologic Units (HUs) Which Do Not Violate Waste Discharge Prohibitions.

Activity	100-year Floodplains (Truckee River, Little Truckee River, and Lake Tahoe HUs)	Stream Environment Zones (Lake Tahoe HU)
1. Hand crew operations (except for slash piling and burning)	Prohibited discharges to 100-year floodplains or SEZs does not occur if activities meet the eligibility criteria and comply with the conditions of the 2024 Timber Waiver.	
2. Over-snow equipment operation (no placement of slash within SEZs or 100 year floodplains)	Prohibited discharges to 100-year floodplains or SEZs does not occur if activities meet the eligibility criteria and comply with the conditions of the 2024 Timber Waiver.	
3. Operations on existing roads	Prohibited discharges to 100-year floodplains or SEZs does not occur if activities meet the eligibility criteria and comply with the conditions of the 2024 Timber Waiver.	
4. Broadcast Burning	Prohibited discharges to 100-year floodplains or permanent disturbance in SEZs do not occur if activities meet the eligibility criteria and comply with the conditions of the 2024 Timber Waiver.	
5. Operation of cut-to-length equipment with less than 13 psi ground pressure on granitic soils off existing roads in SEZs and 100-year floodplains	Prohibited discharges to 100-year floodplains and SEZs does not occur if activities meet all the following conditions: a. Soils are operable (as defined in Attachment A). b. Equipment is excluded 25 feet from all waterbodies. c. Slash mats are employed to prevent direct contact of equipment tires/tracks with the ground surface, and discharge of earthen materials to surface waters. d. Eligibility criteria and conditions of the 2024 Timber Waiver are met.	
6. Construction and removal of temporary watercourse crossings	Prohibited discharges to 100-year floodplains do not occur if activities meet all the following conditions: a. Temporary stream crossings are constructed with clean cobbles or logs. If sand or soil is used as running surface, BMPs must be in place (e.g. filter cloth, brow logs) to prevent discharge of earthen materials to surface waters. b. Stream crossings are completely removed at the end of operations, or prior to the winter period (as defined in Attachment A), whichever is sooner.	Waste discharge in SEZs does not occur if activities meet Basin Plan Section 5.13 criteria: "Crossing of perennial streams or other wet areas shall be limited to improved crossings in accordance with the [TRPA] BMP handbook or to temporary bridge spans that can be removed upon project completion or the end of the work season, whichever is sooner, and damage to SEZ associated with a temporary crossing shall be restored within one year of removal."

Activity	100-year Floodplains (Truckee River, Little Truckee River, and Lake Tahoe HUs)	Stream Environment Zones (Lake Tahoe HU)
	c. Eligibility criteria and conditions of the 2024 Timber Waiver are met.	
7. Placement of chips or masticated material	Prohibited discharges to 100-year floodplains do not occur if activities meet a. or b., and c. below: a. Chips or masticated material is incorporated into the soil, or b. Chips or masticated material do not exceed an average of two inches in depth, with a maximum of four inches, and c. Eligibility criteria and conditions of the 2024 Timber Waiver are met.	Placement of chips or masticated material does not result in prohibited discharges in SEZs if activities meet a. or b., and c. below: a. Chips or masticated material is incorporated into the soil, or b. Chips or masticated material do not exceed an average of two inches in depth, with a maximum of four inches, and c. Eligibility criteria and conditions of the 2024 Timber Waiver are met.
8. Repair or replacement of permanent crossings for existing roads, when new crossing is same size as existing.	Prohibited discharges to 100-year floodplains do not occur if activities do not involve the loss of additional floodplain area or volume (Basin Plan Sections 4.1 and 5.2)	Prohibited discharges to SEZs does not occur from maintenance, repair, or replacement of an existing structure that does not result in greater land coverage (Basin Plan 5.2).
9. Waterhole Maintenance or Repair	Prohibited discharges to 100-year floodplains do not occur from maintenance or repair of an existing waterhole within the original footprint.	Prohibited discharges to SEZs does not occur from maintenance or repair of an existing waterhole within the original footprint.