

Regional Water Quality Control Board
North Coast Region

Staff Summary Report
April 4, 2024

ITEM: 7

SUBJECT: Board Workshop on Draft General Waste Discharge Requirements for Federal Lands in the North Coast Region and associated Draft Environmental Impact Report (*Devon Rabellino, Carley Dunleavy, Forest Fortescue, and Jonathan Warmerdam*)

BOARD ACTION: This item is an informational item only; no action will be taken by the North Coast Regional Water Quality Control Board (Regional Water Board).

BACKGROUND AND PURPOSE: The purpose of this item is to provide an update to and receive feedback from the public, federal agencies, tribal governments, communities of interest, and Regional Water Board members on the *Draft General Waste Discharge Requirements for Discharges Related to Certain Land Management Activities on Federal Lands in the North Coast Region*, Draft Order No. R1-2024-0012 (Federal Lands Permit) and the associated Draft Environmental Impact Report (DEIR). The Regional Water Board is currently scheduled to consider adoption of the Federal Lands Permit and certification of a Final EIR in August 2024.

The Federal Lands Permit is intended to regulate certain land use activities primarily from the three largest federal agencies in the North Coast Region, the United States Forest Service (USFS), Bureau of Land Management (BLM), and National Park Service (NPS). Since 2004, the Regional Water Board has regulated the discharge of nonpoint source pollutants to surface waters on federal lands through three iterations of a Waiver of Waste Discharge Requirements permit:

- Order No. R1-2004-0015: Covered timber harvest activities on USFS lands.
- Order No. R1-2010-0029: Revised to apply to nonpoint source activities such as grazing on USFS lands.
- Order No. R1-2015-0021: Revised to apply to all federal agencies.

On August 20, 2020, the Regional Water Board adopted the *Waiver of Waste Discharge Requirements for Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region*, Order No. R1-2020-0021 (Federal Waiver). The Federal Waiver¹ has the same conditions and provisions as the 2015 Waiver.

¹ Order No. R1-2020-0021

The Federal Waiver applies to federal land management activities such as timber harvesting, livestock grazing, vegetation management, road-related work, fire suppression and recovery, and recreation. The Monitoring and Reporting Program (MRP) of the Federal Waiver only applies to the USFS. Currently, other federal agencies must propose individual project-level monitoring plans.

Federally administered lands cover approximately 46 percent of the land area in the North Coast Region. State water quality regulations apply to federal agencies and activities that occur on federally managed lands. Because the USFS, BLM, and NPS have jurisdiction over their federal lands and facilities and/or engage in activities that may result in the discharge or runoff of pollutants, they are subject to state requirements respecting the control and abatement of water pollution under Clean Water Act section 313.

Regional Water Board staff developed the Draft Federal Lands Permit to address lessons learned from implementing the several iterations of the Federal Waiver; changes to the environment; an increasing annual fire regime; new state and federal policies; and other factors that affect the Regional Water Board's regulation of federal lands.

DISCUSSION: Regional Water Board staff are proposing significant changes to the existing Federal Waiver for inclusion in the Federal Lands Permit. The proposed changes reflect Regional Water Board staff's experience implementing the Federal Waiver, as well as input received to date from Regional Water Board members, federal land management agencies, California Native American Tribes (Tribes), and other communities of interest in the North Coast Region.

The changes are intended in part to adapt the permit to better accommodate fuels management and fire recovery actions on federal lands, reduce threats to communities from catastrophic wildfires, require monitoring that is consistent with existing federal efforts and will yield consistent data, and provide a flexible approach to effectively address controllable sediment discharge sources and otherwise improve watershed conditions through a Watershed Assessment and Recovery Program (WARP).

Significant Changes

The significant changes included in the Federal Lands Permit include, but are not limited to, the following:

1. revising the regulatory approach to livestock grazing;
2. revising the in-channel monitoring requirements to better align with federal agency protocols and state monitoring standards;

3. requiring a new approach to treating controllable sediment discharge sources through a treatment credit system (the WARP) across Administrative Units²; and
4. revising monitoring and reporting requirements.

Watershed Assessment and Recovery Program

The WARP establishes regulatory requirements designed to steadily advance the treatment of CSDS over time. The WARP relies on a performance-based accreditation system developed for each Administrative Unit and tailored to the specific water quality conditions and land management activities on its respective lands.

Each Administrative Unit would be assigned a credit obligation that must be satisfied annually, with compliance assessed as a five-year average, to address CSDS and accrue treatment credits. The WARP would also provide some limited compliance flexibility through alternative actions that protect or improve water quality, including but not limited to aquatic habitat restoration activities, forest resilience and climate adaptation treatments, and certain monitoring and adaptive management actions. Compliance requirements are intended to be adjusted over time, as treatments are applied, impairment conditions change, and management activities evolve.

Livestock Grazing

The proposed revised approach to regulating grazing would require all grazing activities, regardless of current Federal Waiver enrollment status, to comply with the conditions of the Federal Lands Permit. The required conditions for grazing would include grazing best management practices contained in Federal Guidance documents, management measures taken from other Regional Water Board permits, as well as plans and policies that apply to grazing such as the Standards and Guidelines for the Northwest Forest Plan.

On USFS grazing allotments, each National Forest would be required to conduct an evaluation of one allotment annually using the National Best Management Practice Evaluation Protocol and submit the results to the Regional Water Board in their annual report. If evidence of violations of the general conditions is identified, indicator bacteria monitoring of that allotment may be required to evaluate potential impacts to water quality.

Each federal agency would be required to submit a copy of all approved Annual Operating Instructions (AOI) (or equivalent) issued on each allotment. Any corrective actions identified in the National Best Management Practices assessments or in Regional Water Board staff inspection documents would be addressed and incorporated into the following year's AOIs. Each National Forest or federal agency would be required to submit a certification to the Regional Water Board that all allotments meet Federal Guidance standards, and that they transmitted a copy of the permit and requirements to the grazing permittee.

² The term Administrative Unit refers to individual National Forests, BLM Field Offices, and NPS Parks and National Monuments.

The Federal Lands Permit and the associated MRP rely on permit conditions, existing federal best management practices, and the standards and guidelines contained in federal agency guidance documents to demonstrate compliance with water quality standards. Key requirements of this new Order include the treatment of sediment sources across an Administrative Unit, retention of natural shade within designated riparian zones, and implementation of best management practices designed to prevent and minimize discharges of pollutants to surface waters.

In Channel Monitoring

The Draft Federal Lands Permit and associated MRP proposes to revise the current in-channel monitoring requirements for federal agencies. Federal agencies will be required to submit in-channel monitoring information for their Administrative Units that utilize National River and Stream Assessment (NRSA), Aquatic and Riparian Effectiveness Monitoring Plan (AREMP), or similar monitoring protocols subject to approval by the Regional Water Board Executive Officer, to continue to provide the North Coast Water Board with information about in-channel conditions across federal lands.

TRIBAL AND COMMUNITIES OF INTEREST ENGAGEMENT: In July 2022, Regional Water Board staff sent consultation invitations to 63 Tribes in the North Coast Region pursuant to Assembly Bill 52 and Executive Order B-10-11. The consultation invitations provided information about the Federal Lands Permit and the scoping meetings pursuant to the California Environmental Quality Act (CEQA) and an invitation to consult on the project. Regional Water Board staff received six consultation requests and conducted consultations in the fall to winter 2022.

On September 21, 2022, RWB staff submitted the Notice of Preparation (NOP) to the State Clearinghouse for public review. On October 5 and October 14, 2022, RWB staff conducted virtual scoping meetings to solicit input from agencies and interested parties on issues to be addressed in the EIR. The scoping meetings described the requirements under consideration, presented an overview of the environmental review process and preparation of the EIR, and included a public comment period.

The DEIR and Draft Federal Lands Permit are available for a 45-day public comment period from March 22, 2024, ending on May 7, 2024.

TENTATIVE TIMELINE FOR FEDERAL LANDS PERMIT ADOPTION: Federal Lands Permit outreach and engagement included, but was not limited to, consultations with Tribes, CEQA scoping meetings, and a public workshop. Below is the tentative schedule for adoption of the Federal Lands Permit:

1. **March 22 to May 7, 2024:** 45-day public comment period for the Draft Federal Lands Permit and DEIR.
2. **April 4, 2024:** Regional Water Board Workshop for Draft Federal Lands Permit and DEIR.

3. **August 15 or 16, 2024:** Regional Water Board hearing to consider the adoption of Federal Lands Permit and certification of the Final EIR.

RECOMMENDATION: NA

SUPPORTING DOCUMENTS:

1. Draft Order No. R1-2024-0012
 - a. Attachment A – Category A Activities
 - b. Attachment B – Category B Activities
 - c. Attachment C – Monitoring and Reporting Program No. R1-2024-0012
 - d. Attachment C1 – Supplemental MRP Findings
 - e. Attachment C2 – WARP Tracking Form
 - f. Attachment D – Notice of Intent
 - g. Attachment E – Notice of Termination
 - h. Attachment F – Watershed Assessment and Recovery Program
 - i. Attachment F1 – Watershed Assessment and Recovery Program Technical Analysis
 - j. Attachment G – Supplemental Order Findings
 - k. Attachment H – Glossary of Terms and Acronyms
2. Draft EIR
3. Notice of Board Workshop and Public Comment Period