

**ATTACHMENT A**  
**RESOLUTION R6T-2003-0001**

**WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR DISCHARGES RELATED TO  
TIMBER HARVEST ACTIVITIES**

California Water Code Section 13269 authorizes the Regional Water Quality Control Board, Lahontan Region (Regional Board) to waive the requirement to obtain waste discharge requirements and to submit reports of waste discharge as to a specific type of discharge if the waiver is not against the public interest and the waiver is conditional. The Regional Board, in Resolution No. R6T-2003-(PROPOSED), adopted this “Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities.”

Subject to the conditions set forth below, the Regional Board waives the requirements to submit reports of waste discharge and filing fees and the requirement to obtain waste discharge requirements for the categories of waste discharges specified in Part II and Part III below related to timber harvest activities, except for those activities for which waste discharge requirements have been adopted, provided that the following actions (1) and (2) for nonfederal timber lands, and (3) and (4) for federal timber lands managed by the US Forest Service, respectively, continue in effect.

1. 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 (CDF) as the joint management agencies for implementation of the Water Quality Management Plan for timber operations on nonfederal lands in California.
2. The BOF and CDF diligently proceed to adopt and implement: (a) a water quality regulatory program consistent with the Water Quality Control Plan for the Lahontan Region (Basin Plan) and consistent with the requirements of all other applicable water quality control plans; and (b) a timber harvest activity verification system acceptable to the Regional Board, including but not limited to inspection, surveillance, monitoring, and enforcement of management practices implemented to mitigate the potential effects of timber harvest activities on water quality.
3. 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 US Forest Service as the management agency.
4. The US Forest Service 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 verification system acceptable to the Regional Board, including but not limited to inspection, surveillance, enforcement, and monitoring 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, including Christmas trees, 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, or beds for the falling of trees; fire hazard abatement; site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities; and herbicide application; but excluding preparatory treemarking, surveying or roadflagging. Also included in this definition are silvicultural activities performed by the USFS using its own crews, volunteers, inmate crews, etc., and/or service contracts, without regard to whether timber is to be sold for commercial purposes. “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 US Forest Service, private timber operators operating on federal lands, and anyone working on behalf of the US Forest Service 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 CDF 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 CDF, etc., shall not be considered a “Plan” for purposes of this Waiver.)
4. “Requirement of an applicable water quality control plan” means a water quality objective, prohibition, TMDL implementation plan, or other requirement contained in a water quality control plan 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. (Excerpts of the currently applicable requirements are included in Attachment 1 to this Waiver for the dischargers’ convenience; Attachment 1 may be revised from time to time.)

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, instream water quality monitoring undertaken in connection with timber operations, monitoring to identify short and long-term trends in water quality, active inspections of timber operations, hillslope implementation and effectiveness monitoring, and project completion inspections for timber operations.
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 (as identified in Attachment 1 for the dischargers' convenience), and as these may be modified from time to time pursuant to amendments to water quality control plans adopted by the Regional Water 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 CDF-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 US Forest Service; and
3. The discharger shall not create a pollution, contamination, or nuisance, as defined by CWC Section 13050; and
4. The discharger shall not discharge any waste not specifically regulated by the waivers described herein, and shall not cause alteration in stream temperature which exceeds Basin Plan requirements. Wastes specifically regulated under this waiver are: earthen materials including soil, silt, sand, clay, rock; organic materials such as slash, sawdust, or bark; and silvicultural herbicides that enter or threaten to enter into waters of the State. Examples of wastes not specifically regulated under this waiver include: petroleum products, hazardous materials, or human wastes; and
5. The discharger shall allow Regional Board staff to: (a) enter at any time, with or without advance notice, upon the discharger's property where timber harvest activities covered under this Waiver are occurring or have occurred, including any and all outdoor areas in the vicinity of and downstream of timber harvest activities, for the purposes of observing, inspecting, photographing, video taping, measuring, and/or collecting samples or other monitoring information to document compliance or non-compliance with the

- eligibility criteria and/or conditions of this Waiver; and (b) access and copy at reasonable times any self-monitoring records that must be kept as directed by the Executive Officer, and to inspect at reasonable times any equipment used to fulfill monitoring requirements established by the Executive Officer. Immediately upon entering the property, Regional Board staff will attempt to contact persons performing the timber harvest activities or other on-site representative(s) of the discharger in order to obtain permission for each inspection, and to discuss any safety considerations. In seeking coverage under this Waiver, the discharger provides advance consent for announced or unannounced access by Regional Board staff to outdoor areas as specified above. If any such consent is unreasonably withheld, the Executive Officer shall terminate the applicability of the Waiver pursuant to Section (IV)(1)(b) of this Waiver; and
6. Any person seeking coverage under this Waiver shall file the applicable eligibility document(s) as described herein with the Regional Board; and
  7. Unless other timeframes are specified, discharges associated with timber harvest activities 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, and Part III – Activities Existing or Completed prior to the effective date of this Waiver.

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

### **A. CATEGORY 1: MINOR TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS (including certain activities approved by CDF under exemption or emergency notices, timber harvesting plans, other plans, or amendments).**

1. **Eligibility Criteria:**
  - a. Timber harvest activities within 150 feet of existing structures (i.e., “FireSafe” treatments) that are conducted pursuant to a Notice of Exemption accepted by CDF under 14 CCR Section 1038(c). No notice to the Regional Board is required for timber harvest activities that meet this criterion.
  - b. Timber harvest activities, other than “FireSafe” treatments as specified in (II)(A)(1)(a), that comply with the following criteria as clearly indicated in the Plan or Notice of Exemption or Notice of Emergency accepted by CDF:
    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, as defined in 14 CCR 916.4 [936.4, 956.4](b), or within 25 feet of any Class III or Class IV watercourse where sideslope steepness is less than 30%, or within 50 feet of any Class III or Class IV watercourse where sideslope steepness is 30% or greater, 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.
13. No timber harvest activities involving mechanical site preparation, as defined in 14 CCR 895.1.
14. No timber harvest activities involving prescribed burning.
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].
16. No timber harvest activities that include, are accompanied by, or followed by post-harvest applications of herbicides.

2. **Conditions:**

- a. The discharger shall comply with the General Conditions described in (I)(B) above.
- b. The discharger shall submit to the Regional Board a copy of: (1) an approved Plan, or an exemption or emergency notice accepted by CDF, that includes all of the above eligibility criteria, accompanied by (2) a certification Notice, signed by the discharger, certifying that the timber harvest activities will comply with the eligibility criteria and conditions for Waiver Category 1. This notification is not required for those projects that meet the eligibility criteria for "FireSafe" treatments, as contained at (II)(A)(1)(a), 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 CDF:
  - 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 proposed for use during timber harvest activities (including existing crossings and/or those to be constructed or reconstructed, for all Class I-IV watercourses), and all landings and skid trails proposed for use during timber harvest activities (including existing landings and skid trails and those to be constructed or reconstructed) for which any portion of the landing or skid trail lies within the standard width of any Watercourse and Lake Protection Zone for a Class I or Class II watercourse as defined by 14 CCR 916.5 [936.5, 956.5] (Table 1), or within 25 feet of any Class III or Class IV watercourse where sideslope steepness is less than 30%, or within 50 feet of any Class III or Class IV watercourse where sideslope steepness is 30% or greater.
  - b. For those projects where aquatic or wetland habitat for rare, threatened or endangered species is identified: (i) Additional field review has been conducted by a scientist, with a bachelor's or advanced degree in relevant biological sciences and relevant experience in aquatic systems, to determine if the proposed project could adversely affect such species or their habitat, and to recommend project modifications and/or mitigation measures as needed to avoid any adverse impact(s) to such species or their habitat; and (ii) The Notice of Exemption or Notice of Emergency identified and incorporates any and all project modifications and mitigation measures recommended by the biological scientist to avoid any adverse impact(s) to rare, threatened or endangered species, or their habitat.
  - c. The Notice of Exemption or Notice of Emergency identifies any additional management practices and/or water quality mitigation or protective measures

(beyond the requirements of the current Forest Practice Rules) to address, at a minimum, the features and conditions described in Section (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.

- 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 will 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 area, no trees that provide shade to the waters during the critical summer period shall be cut.

2. **Conditions:**

- a. The discharger shall submit to the Regional Board: (1) a copy of a Notice of Exemption or Notice of Emergency accepted by CDF that includes the information required by (II)(B)(1)(a-d), above; accompanied by: (2) a certification Notice, signed by the discharger, certifying that the timber harvest activities will comply with all conditions applicable to Waiver Category 2.
- b. The discharger shall comply with the General Conditions described in (I)(B), above.
- c. The discharger shall notify the Regional Board in writing at least 90 days prior to the proposed application of herbicides. The notification shall include the type of herbicide, method and area of application, projected date 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 forthwith, and in no event less than 14 days before the application, unless Regional Board staff agrees in writing to a lesser notice.

- d. The discharger shall comply with a monitoring program when directed in writing by the Executive Officer.
- e. Within 30 days after completion of timber harvest activities under a notice of exemption or emergency, the discharger shall submit to the Regional Board a final certification, signed by the landowner, certifying that: (1) the timber harvest activities were conducted in conformance with the CDF-accepted exemption or emergency notice [including information required in (II)(B)(1)(a-d), above] and all other applicable provisions of this waiver, and (2) discharges resulting from the timber harvest activities were in compliance or are expected to comply with all requirements of applicable water quality control plans.

**C. CATEGORY 3: TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CDF AND FOR WHICH REGIONAL BOARD STAFF HAS FULLY PARTICIPATED IN THE INTERDISCIPLINARY REVIEW TEAM PROCESS (including timber harvesting plans, nonindustrial timber management plans, other plans, and amendments).**

1. **Eligibility Criteria:**

- a. Regional Board staff has participated in CDF's interdisciplinary review team process, including an on-site pre-harvest inspection (PHI), except that attendance at a PHI by Regional Board staff is not required for an amendment to a previously waived project to be eligible for this Waiver Category if, after review of the proposed amendment, Regional Board staff notifies CDF in writing that Regional Board participation at a PHI is not necessary for that amendment to be eligible for coverage under Waiver Category 3.
- b. Additional management practices and/or water quality mitigation or protective measures (beyond the requirements of the current Forest Practice Rules, if necessary), are identified 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 mitigation or protective measures are submitted in writing to CDF by Regional Board staff, or Regional Board staff accepts, in writing, those management practices and/or water quality mitigation or protective measures proposed by either CDF or the RPF.
- d. All identified additional management practices, and/or water quality mitigation or protective measures are incorporated into the Plan as submitted or accepted by Regional Board staff, or as subsequently agreed to in writing by the Regional Board's Executive Officer following dispute resolution.

2. **Conditions:**

- a. The Regional Board receives: (1) a copy of a Plan approved by CDF that incorporates all identified additional management practices, and/or water quality



mitigation or protective measures resulting from Regional Board staff participation in CDF's interdisciplinary review team process, and (2) a certification Notice, signed by the discharger, listing the Plan number and certifying that the discharger believes that the activities are appropriately covered under waiver Category 3.

- b. For an approved NTMP, the discharger shall submit each Notice of Timber Operations to the Regional Board 30 days prior to commencement of timber harvest activities.
- c. The discharger shall comply with the General Conditions described in (I)(B), above.
- d. The discharger shall notify the Regional Board in writing at least 90 days prior to the proposed application of herbicides. The notification shall include the type of herbicide, method and area of application, projected date 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 forthwith, and in no event less than 14 days before the application, unless Regional Board staff agrees in writing to a lesser notice.
- e. The discharger shall comply with a monitoring program when directed in writing by the Executive Officer.
- f. The discharger shall submit forthwith to the Regional Board copies of annual or completion reports filed with CDF, and a final certification, signed by the landowner, certifying that: (1) the timber harvest activities were conducted in conformance with the approved Plan or accepted notice of timber operations and complied with all applicable provisions of this waiver, and (2) discharges resulting from the timber harvest activities were in compliance or are expected to comply with all requirements of applicable water quality control plans.

**D. CATEGORY 4: TIMBER HARVEST ACTIVITIES ON NONFEDERAL LANDS THAT RECEIVE DISCRETIONARY APPROVAL FROM CDF 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 harvesting plans, non-industrial timberland 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 CDF 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 proposed for use during timber harvest activities (including existing crossings and/or those to be constructed or reconstructed, for all Class I-IV watercourses), and all landings and skid trails proposed for use during timber harvest activities (including existing landings and skid trails and those to be constructed or reconstructed) for which any portion of the landing or skid trail lies within the standard width of any Watercourse and Lake Protection Zone for a Class I or Class II watercourse as defined by 14 CCR 916.5 [936.5, 956.5] (Table 1), or within 25 feet of any Class III or Class IV watercourse where sideslope steepness is less than 30%, or within 50 feet of any Class III or Class IV watercourse where sideslope steepness is 30% or greater.
- b. For those Plans where aquatic or wetland habitat for rare, threatened or endangered species is identified, additional field review has been conducted by a scientist, with a bachelor's or advanced degree in relevant biological sciences and relevant experience in aquatic systems, to determine if the Plan could adversely affect such species or their habitat, and to recommend project modifications and/or mitigation measures as needed to avoid any adverse impact(s) to 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 in sensitive near-stream conditions, 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 geology permits, to determine if the Plan could cause or exacerbate the potential for soil erosion or movement, and to recommend project modifications and/or mitigation measures as needed to ensure compliance with applicable water quality control plans.
- c. The approved Plan:
1. Incorporates, as addenda, signed technical reports from qualified professionals when required to be prepared under (II)(D)(1)(b), and any and all project modifications and mitigation measures recommended by the qualified biological scientist to avoid adverse impacts to rare, threatened or endangered species, and any and all project modifications recommended by the registered engineer or engineering geologist to ensure compliance with applicable water quality control plans.

2. Incorporates any additional management practices and/or water quality mitigation or protective measures (beyond the requirements of the current Forest Practice Rules) to address, at a minimum, the conditions described in (II)(D)(1)(a) and (II)(D)(1)(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.
3. The management practices and water quality mitigation and 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 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 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 waters within or downstream from the logging area, no trees that provide shade to the waters during the critical summer period shall be cut.

2. **Conditions:**

- a. The Regional Board receives: (1) a copy of an approved Plan that meets the eligibility criteria in (II)(D)(1)(a-c); and (2) a certification Notice signed by the discharger 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 30 days prior to commencement of timber harvest activities.
- c. The discharger shall comply with the General Conditions described in (I)(B), above.
- d. The discharger shall notify the Regional Board in writing at least 90 days prior to the proposed application of herbicides. The notification shall include the type of herbicide, method and area of application, projected date 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 forthwith, and in no event less than 14 days before the application, unless Regional Board staff agrees in writing to a lesser notice.

- e. The discharger shall comply with a monitoring program when directed in writing by the Executive Officer.
- f. The discharger shall submit, forthwith, to the Regional Board copies of annual or completion reports filed with CDF, and a final certification, signed by the landowner, certifying that: (1) the timber harvest activities were conducted in conformance with the approved Plan or accepted notice of timber operations [including information required in (II)(D)(1)(a-c), above] and complied with all other applicable provisions of this waiver, and (2) discharges resulting from the timber harvest activities were in compliance or are expected to comply with all requirements of applicable water quality control plans.

**E. CATEGORY 5: TIMBER HARVEST ACTIVITIES ON FEDERAL LANDS  
MANAGED BY THE U.S. FOREST SERVICE**

1. **Eligibility Criteria:**

- a. The discharger 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 discharger has conducted a cumulative watershed effects (CWE) analysis and included specific measures needed to reduce the potential for CWEs in order to assure compliance with applicable water quality control plans.

2. **Conditions:**

- a. For all projects to be covered under this Waiver Category, the discharger shall submit to the Regional Board, early in the planning process, a description of the project. The discharger shall also submit to the Regional Board copies of all draft and final environmental and decision documents prepared pursuant to NEPA, and any other decision documents that contain information documenting compliance with the eligibility criteria at (II)(E)(1), above, unless Regional Board staff notifies the discharger in writing that such planning documents are not needed for a specific project. When Regional Board staff, based on its review of the project description, elects in writing not to receive environmental and/or decision documents for a specific project, the discharger shall provide a certification notice signed by the Forest Supervisor or a duly authorized representative, stating the project name and location, and briefly documenting how the discharger complied with the eligibility criteria at (II)(E)(1)(a-b), and certifying that the discharger intends to comply with all conditions applicable to Waiver Category 5.

- b. The discharger shall submit and comply with a monitoring program prior to commencement of timber operations when: (1) the discharger's cumulative watershed effects analysis indicates that the project may cause any watershed or sub-watershed to exceed a threshold of concern as determined by various models (i.e., Equivalent Roaded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.); or (2) the cumulative watershed effects analysis indicates that the project may increase risk values, as determined by various models (Equivalent Roaded Acres (ERA), Surface Erosion (USLE), Mass Wasting (GEO), etc.), in any watershed or subwatershed that already exceeds a threshold of concern prior to project implementation. The Executive Officer retains the discretion to waive this requirement, or to impose monitoring requirements in other situations, as appropriate.
- c. The discharger shall comply with the General Conditions described in (I)(B), above.
- d. The discharger shall submit to the Regional Board, forthwith upon completion of timber harvest activities, a final certification signed by the Forest Supervisor or District Ranger or their duly authorized representative, certifying that: (1) the timber harvest activities were conducted in conformance with all applicable provisions of this waiver, including (II)(E)(1)(a-b), above, and (2) discharges resulting from the timber harvest activities were in compliance or are expected to comply with all requirements of applicable water quality control plans.

### **III. ACTIVITIES EXISTING OR COMPLETED AS OF JANUARY 8, 2003**

Timber harvest activities that were authorized to proceed by CDF or the US Forest Service prior to the adoption of this Waiver can be covered under this waiver if they meet one or more of the eligibility criteria, submit the specified eligibility document(s) to the Regional Board, and comply with the applicable conditions, as specified below:

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

- a. Timber harvest activities on nonfederal lands that meet the eligibility criteria at (II)(A)(1)(a) for a Category 1 waiver (i.e., "FireSafe" treatments around existing structures). No notice to the Regional Board is required.
- b. Timber harvest activities on nonfederal lands that meet the eligibility criteria at (II)(A)(1)(b) for a Category 1 waiver (i.e., minor timber harvest activities other than "FireSafe" treatments approved by CDF under 14 CCR 1038(c)), upon receipt by the Regional Board of a certification Notice listing the Plan (or notice) number and all of the eligibility criteria at (II)(A)(1)(b), and certifying that the timber harvest activities meet all of those eligibility criteria, and that the discharger believes that the activities are appropriately covered under Waiver Category (III)(1)(b). The certification Notice shall be signed by the discharger.

- c. Timber harvest activities on nonfederal lands accepted by CDF under a Notice of Exemption or Notice of Emergency that do not qualify for a waiver under subsection (a) or (b) above, upon receipt by the Regional Board of: (1) a copy of the CDF-accepted Notice of Exemption or Notice of Emergency, and (2) a certification Notice listing the CDF notice number and any additional practices needed to meet the eligibility criteria at (II)(B)(1)(c&d), and certifying that those additional practices will be followed during the implementation of said project, and that the discharger believes that the activities are appropriately covered under Waiver Category (III)(1)(c). The certification Notice shall be signed by the discharger.
  - d. Timber harvest activities on nonfederal lands approved by CDF prior to the effective date of this Waiver, but which otherwise meet the eligibility criteria at (II)(C)(1)(a-d) for a waiver under Category 3, upon receipt by the Regional Board of: (1) a copy of the CDF-approved plan that incorporates all management practices and/or water quality mitigation or protective measures identified or approved by Regional Board staff during its participation in the interagency review team process, and (2) a certification Notice, signed by the discharger, listing the Plan number and certifying that the discharger believes that the activities are appropriately covered under waiver Category (III)(1)(d).
  - e. Timber harvest activities on nonfederal lands that were approved by CDF prior to the effective date of this Waiver and that were not the subject of an unresolved nonconcurrence by Regional Board staff pursuant to 14 CCR 1037.5(e), and that are supplemented as described in this paragraph, upon receipt by the Regional Board of: (1) a copy of the CDF-approved Plan, and (2) a certification Notice that lists the Plan number, details any additional management practices needed to meet the eligibility criteria at (II)(D)(1)(c)(2), and certifying that those additional practices will be followed during the implementation of said project, and that the discharger believes that the activities are appropriately covered under Waiver Category (III)(1)(e). The certification Notice shall be signed by the discharger.
  - f. Timber harvest activities on National Forest System lands for which a NEPA decision document was executed by the US Forest Service prior to the effective date of this Waiver, provided that: (1) the final environmental and decision documents prepared pursuant to NEPA contain information documenting compliance with the eligibility criteria at (II)(E)(1)(a&b), above, and (2) the discharger submits to the Regional Board a signed certification listing the project name and location, and certifying that the discharger believes that the activities are appropriately covered under Waiver Category (III)(1)(f).
2. **Conditions:**

Conditions (a) through (d), below, apply to timber harvest activities on both nonfederal and federal lands. Conditions (e) through (g) apply to timber harvest

activities on nonfederal lands only. Condition (h) applies to timber harvest activities on federal lands only:

- a. The discharger shall submit to the Regional Board the eligibility documents described in the preceding Section.
- b. For those categories where application of herbicides is allowed, the discharger shall notify the Regional Board in writing at least 90 days prior to the proposed application of herbicides. The notification shall include the type of herbicide, method and area of application, projected date 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 forthwith, and in no event less than 14 days before the application, unless Regional Board staff agrees in writing to a lesser notice.
- c. The discharger shall comply with a monitoring program when directed in writing by the Executive Officer.
- d. The discharger shall comply with the General Conditions described in (I)(B), above.
- e. For an approved NTMP, each future Notice of Timber Operations shall be submitted to the Regional Board 30 days prior to commencement of timber harvest activities.
- f. For an approved Program Timberland Environmental Impact Report (PTEIR), the proponent of each future Program Timber Harvesting Plan (PTHP) would need to seek coverage under Section II, Waiver Category 1, 3, or 4 for each new PTHP.
- g. The discharger (nonfederal lands) shall submit to the Regional Board, forthwith upon completion of timber harvest activities, a final certification signed by the landowner, certifying that: (1) the timber harvest activities were conducted in conformance with the approved Plan or accepted notice of timber operations and with all other applicable provisions of this waiver, and (2) discharges resulting from the timber harvest activities were in compliance or are expected to comply with all requirements of applicable water quality control plans.
- h. The discharger (federal lands) shall submit to the Regional Board, forthwith upon completion of timber harvest activities, a final certification signed by the Forest Supervisor or District Ranger, certifying that: (1) the timber harvest activities were conducted in conformance with all applicable provisions of this waiver, and (2) discharges resulting from the timber harvest activities were in compliance or are expected to comply with all requirements of applicable water quality control plans.

**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 result in violation of any requirement of an applicable water quality control plan or policy. In making this determination, the Executive Officer shall consider the recommendations of 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;
  - e. Where cumulative impacts, special hydrographic characteristics, or other circumstances threaten to create significant water quality impacts that are not otherwise addressed by the waiver conditions.
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 notice of termination, the discharger must file a report of waste discharge and applicable filing fee. 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).