

**California Regional Water Quality Control Board**

**North Coast Region**

**Order No. R1-2024-0012**

**General Waste Discharge Requirements**

**for**

**Nonpoint Source Discharges**

**Related to Certain Land Management Activities**

**on**

**Federal Lands**

**in the**

**North Coast Region**

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The California Regional Water Quality Control Board, North Coast Region, (hereinafter North Coast Water Board) finds that:

## I. FINDINGS

### A. INTRODUCTION

1. The federal lands of Northern California form a mosaic of landscapes that support a wealth of natural resources, native flora and fauna, diverse ecosystems, and beneficial uses of water. From the ancient forests of Redwood National Park to the King Range National Conservation Area, across the Yolla Bolly – Middle Eel Wilderness, over the snow-covered peaks of the Trinity Alps, and to the desert plains of the Modoc Plateau, federal lands constitute almost half of the total land area of the North Coast Region.
2. Although these lands have sustained and benefited humans since time immemorial, the seemingly boundless resources they provide are at risk and have experienced significant stressors over the past century and a half. The effects of past and present land use activities, disruption of native plant and animal communities, changes to instream flows, effects of climate change, and catastrophic wildfires, threaten and degrade many aquatic ecosystems. Today, most of the watersheds of the North Coast Region are identified as impaired<sup>1</sup> due to excess sediment and elevated temperatures.
3. Federal land management agencies (Federal Agencies<sup>2</sup>) – including the United States Forest Service (USFS), Bureau of Land Management (BLM), National Park Service (NPS), Bureau of Reclamation, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the U.S. Coast Guard – are entrusted with the responsibility of caring for these resources. These agencies are required to protect and manage these lands, including taking actions to sustain native wildlife populations, maintain the health of forests and grasslands, and protect and restore water quality, while simultaneously managing uses for forest products, energy, mineral extraction, recreation, and more.
4. The North Coast Water Board is California’s primary water pollution control agency and is responsible for protecting and restoring the beneficial uses of waters of the state within the North Coast Region. The Porter-Cologne Water Quality Control Act<sup>3</sup> is the state’s comprehensive water quality control statute

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<sup>1</sup> List of waterbodies in the North Coast Region identified as impaired on Section 303(d) of the Clean Water Act can be found at the following webpage:

[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/tmdls/303d/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/tmdls/303d/).

<sup>2</sup> Federal land management agencies in the North Coast Region include the United States Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, and United States Coast Guard. See Findings B.1-9 for discussion of federal land management in the North Coast Region.

<sup>3</sup> Water Code section 13000 et seq.

which implements portions of the federal Clean Water Act<sup>4</sup>. Working together, Federal Agencies and the North Coast Water Board share responsibilities under state and federal laws to protect and restore the quality and availability of clean water for people and the environment.

5. While the vast expanses of federal lands in the North Coast Region are a highly valuable resource, they also present a challenging responsibility to manage. Federal Agencies frequently cite insufficient resources that act as a barrier to addressing the needs of the lands they manage. Staffing and funding deficiencies can impede these agencies' abilities to manage their responsibilities such as maintaining infrastructure and roads, addressing legacy sediment sources, conducting fuels management, restoring impaired waterbodies, managing livestock grazing, and overseeing timber, mineral, and gas extraction. At times the Federal Agencies are challenged to meet their own stated mandates or to fully comply with their obligations under state and federal law. These federal resource limitations have inadvertently resulted in impacts to the environment and degradation of water quality.
6. Federal Agencies periodically receive new mandates and/or funding from Congress to implement restoration and remediation actions on federal lands. The Great American Outdoors Act (H.R. 1957) and the Inflation Reduction Act of 2022 are examples of these types of actions. Legislation like this, along with grant funding and regular funding allocations at the federal level, helps to accelerate and facilitate implementation of remediation and restoration actions in the North Coast Region. However, varying congressional appropriations of funds and staffing may continue to present a conundrum for Federal Agencies.
7. The North Coast Water Board and its staff must uphold its obligations to protect the state's waters on federal lands in a manner that is commensurate with its regulation of state owned and private lands. This *General Waste Discharge Requirements Order for Nonpoint Source Discharges Related to Certain Land Management Activities on Federal Lands in the North Coast Region*, also known as the Federal Lands Permit, addresses discharges of waste to waters of the state from certain activities on federal lands. Through this Order, the North Coast Water Board and its staff will continue to work with the Federal Agencies to ensure conformance with California's water quality laws and regulations and the applicable federal requirements.

## **B. FEDERAL LAND MANAGEMENT IN THE NORTH COAST**

1. The North Coast Region encompasses approximately 12,416,000 acres. Federal Agencies cumulatively manage 5,746,798 acres between various Administrative Units. Administrative Unit is a term used in this Order to refer to individual USFS National Forests, BLM Field Offices, and NPS National

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<sup>4</sup> The primary objective of the federal Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters (Clean Water Act section 101(a)).

Parks or National Monuments. There may be similar subdivisions of other Federal Agencies, but for the purposes of this Order, Administrative Unit applies only to USFS, BLM, and NPS. Collectively, Federal Agencies manage approximately 46 percent of the North Coast Region (Table 1).

**Table 1. Identification of the acreage and percentage of federal land ownership in the North Coast Region.**

<b>Agency</b>	<b>Administrative Unit</b>	<b>Acreage</b>	<b>Federal Lands %</b>	<b>North Coast Region %</b>
USFS Pacific Southwest Region	Modoc National Forest	651,781	87	40
	Klamath National Forest	1,474,503		
	Shasta-Trinity National Forest	1,258,693		
	Mendocino National Forest	467,491		
	Six Rivers National Forest	1,163,006		
USFS Pacific Northwest Region	Rogue River-Siskiyou National Forest	83,506	1.5	0.6
Bureau of Land Management	Arcata Field Office	204,215	7	3
	Ukiah Field Office	37,532		
	Redding Field Office	98,719		
	Applegate Field Office	41,387		
National Park Service	Redwood National and State Parks <sup>5</sup>	131,983	2.5	1.4
	Lava Beds National Monument	46,504		
Other Federal Agencies		124,030	2	1

2. The USFS, BLM, and NPS cumulatively manage the greatest percentage of federal land ownership in the North Coast Region. As a result, the conditions of this Order and the requirements of the Monitoring and Reporting Program (MRP) largely focus on these Federal Agencies.
3. Other federal agencies include the Bureau of Reclamation, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the U.S. Coast Guard which also manage a combined total of 124,030 acres in the North Coast Region. The types of activities conducted on these federally managed lands typically differ from those conducted by the USFS, BLM, and NPS, and therefore are

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<sup>5</sup> There are 60,268 acres of California Department of Parks and Recreation lands within Redwood National and State Parks. Certain activities on these state-owned lands are eligible for enrollment in this Order when conducted in conjunction with activities on federal lands due to the 1994 Memorandum of Understanding between the National Park Service and California Department of Parks and Recreation that established joint land management. See Attachment G, Supplemental Order Findings, section III.C.1-2 for further detail.

not specifically described in this Order. However, these other agencies can apply for coverage as needed if and when conducting activities covered by this Order. For enrollments by these other federal agencies, applicable Order conditions apply, except for the Watershed Assessment and Recovery Program requirements, and only Sections I, II, VI, and X of the MRP applies (General Conditions, Discharge Notifications, Monitoring for Category B Projects, and California Environmental Quality Act Mitigation Monitoring and Reporting Program Compliance, respectively).

4. Typical land use activities that are conducted on federal lands and covered by this Order include timber harvest, road management, livestock grazing, vegetation and fuels management, fire suppression, fire recovery, and recreational facilities management. See Section I.D.3 for detailed descriptions of covered activities.
5. The implementation of federal land management activities is governed by federal planning frameworks which provide overarching land management policies and guidance. These frameworks include aquatic conservation strategies designed to prevent and mitigate potential water quality impacts and enhance and protect aquatic habitat and species. The policies that inform federal land management decisions begin with federal laws such as the Clean Water Act, the National Environmental Policy Act (NEPA), and the Federal Land Protection and Management Act. These laws guided the development of overarching landscape management approaches and aquatic conservation goals included in documents such as the Northwest Forest Plan, Sierra Nevada Forest Plan, federal agency-specific Best Management Practices (BMPs), and Administrative Unit-specific management plans. In this Order, these types of documents are considered components of and referred to as “Federal Guidance”. Please refer to Attachment G Section III.D for further discussion of Federal Guidance documents.
6. The stated goals of federal planning frameworks and their associated BMPs, when fully implemented, are intended to prevent, minimize, and mitigate waste discharges and other controllable water quality factors. To rely on the implementation of Federal Guidance to ensure water quality protection, there must be transparency regarding which on-the-ground prescriptions are selected to implement BMPs and documentation of BMP implementation and effectiveness.
7. To comply with this Order, its associated MRP, and sediment, temperature, dissolved oxygen, and nutrient Total Maximum Daily Loads (TMDLs), Federal Agencies, as well as livestock grazing permittees and other third parties, must successfully implement management measures, adhere to Federal Guidance, and comply with the standards provided by the *Water Quality Control Plan for the North Coast Region* (Basin Plan). Failure to meet these requirements may result in notices of violation and/or additional progressive enforcement actions, including site-specific cleanup and abatement measures, monitoring or reporting requirements, or a time schedule order pursuant to Water Code section 13308.

8. Compliance with this Order constitutes conformance with sediment, temperature, dissolved oxygen, and nutrient TMDL goals, implementation plans, or policies. This Order provides the implementation mechanism to address impairments from activities covered by this Order in watersheds listed on the Clean Water Act section 303(d) list.
9. The implementation strategy for the remainder of the sediment and temperature impaired waters, including those with completed TMDLs, are described in the *Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters in the North Coast Region*<sup>6</sup> and the *Policy for the Implementation of the Water Quality Objective for Temperature*<sup>7</sup>, contained within sections 4.3.2.1 A and B of the Basin Plan. Both policies state that the North Coast Water Board shall address sediment waste discharges on a watershed-specific basis and direct staff to use permitting authorities to control sediment and temperature waste discharges. See Attachment G, Sections I.G. and I.H., respectively, for further discussion on the Sediment and Temperature Policies.

### C. REGULATORY BACKGROUND

1. In 2004, the North Coast Water Board developed its first regulatory permitting program for the portion of federal lands within USFS ownership in the North Coast Region through the adoption of the *Waiver for Discharges Related to Timber Harvest Activities on Federal Lands Managed by the United States Department of Agriculture, Forest Service in the North Coast Region*, Order No. R1-2004-0015 (2004 Waiver). The 2004 Waiver has since been modified, expanded, and reapproved by the *Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region*, Order R1-2010-0029 (2010 Waiver) and the subsequent *Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region*, Order No. R1-2015-0021 (2015 Waiver). The 2010 and 2015 Waivers are supported by a 2010 Mitigated Negative Declaration<sup>8</sup> prepared by North Coast Water Board staff pursuant to the California Environmental Quality Act (CEQA). In 2020, the North Coast Water Board renewed the 2015 Waiver<sup>9</sup> to allow for development of this Federal Lands Permit and an updated CEQA analysis.

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<sup>6</sup> [Resolution R1-2004-0087](#).

<sup>7</sup> [Resolution R1-2014-0006](#).

<sup>8</sup> State Clearinghouse No. 2010042031. The 2010 Mitigated Negative Declaration may be accessed at the following webpage: <https://ceqanet.opr.ca.gov/2010042031>.

<sup>9</sup> Short-term renewal of the *Waiver of Waste Discharge Requirements for Nonpoint Source Discharges Related to Certain Federal Land Management Activities on National Forest System Lands in the North Coast Region*, Order No. R1-2020-0021.



2. Many lessons have been learned as the various iterations of the Waivers have been implemented. This Order contains significant modifications from the most recent 2015 Waiver. A rapidly changing climate, increasing annual fire regime, lessons regarding regulatory efficacies, new state and federal policies, and other factors have informed the changes from the 2015 Waiver and are included in this Order. These modifications were developed considering North Coast Water Board staff's experience implementing the Waiver as well as input received from North Coast Water Board members, Federal Agencies, tribal governments, and other communities of interest. The most substantive modifications include the following:
  - a. converting from a Waiver of Waste Discharge Requirements to a Waste Discharge Requirements (WDR) permit;
  - b. removing project-level legacy sediment site treatment to facilitate ease of implementation of fuels reduction activities;
  - c. requiring agencies to comply with the Administrative Unit-wide Watershed Assessment and Recovery Program (WARP) to steadily advance the treatment of controllable sediment discharge sources and incentivize fuels reduction, aquatic habitat restoration, and other activities;
  - d. specifying a set of general conditions that apply to livestock grazing activities on federal lands rather than relying on federal grazing permit renewals; and
  - e. integrating and referencing Federal Guidance and monitoring and reporting requirements from the three Federal Agencies with the greatest federal land ownership in the North Coast Region (USFS, BLM, and NPS).
3. For the purposes of adoption of this Order, the North Coast Water Board is the lead agency pursuant to CEQA (Public Resources Code, section 21000 et seq.). As a result of the significant modifications included in this Order, as well as recognizing that over ten years has passed since the analysis of environmental impacts in the 2010 Mitigated Negative Declaration, and a host of smaller considerations, the North Coast Water Board has prepared and circulated an Environmental Impact Report (EIR) that analyzes the potential environmental impacts of this Order (SCH number 2022090353). The North Coast Water Board certified the EIR pursuant to CEQA on August 15, 2024, when it adopted Resolution No. R1-2024-0032.
4. Other regional water quality control boards have existing, or are currently developing, similar regulatory programs for federal land management activities. The North Coast Water Board commits to ongoing coordination with the State Water Board, other regional water boards, and the federal agencies to assess whether there could be improvements in efficiency and consistency by developing statewide standards for management of discharges from activities on federal lands, while recognizing regional differences.

## D. ORDER STRUCTURE

1. Findings D.2-3 below describe the types of activities that are conditionally authorized (permitted) by this Order and have the potential to result in discharges of waste to waters of the state. Findings D.4-6 below describe types of activities that are not authorized by this Order and may require separate North Coast Water Board permit coverage. Authorized nonpoint source activities, except for emergency activities, are separated into two categories; activities that pose a low risk or activities that pose a moderate risk to water quality (designated as Category A and Category B, respectively). Attachments A and B contain lists of Category A and B activities. Category A and B projects have different enrollment procedures which are described in detail below (Findings D.7-10). Emergency activities are described in Findings E.25-29.

### Activities Covered

2. This Order addresses nonpoint source discharges of waste to waters of the state from activities associated with certain activities on federal lands. Most of the potential water quality impacts are associated with erosion and sediment delivery and/or alterations to riparian systems that may reduce shade and affect water temperatures. Livestock grazing can affect dissolved oxygen and nutrient concentrations in water.
3. This Order authorizes the incidental discharge of waste to waters of the state that occurs when Order conditions are adequately implemented and associated with the following activities:
  - a. **Timber Harvest:** Timber harvested from federal lands. Timber harvest activities include different silvicultural prescriptions, heavy equipment use, and construction and/or use of logging infrastructure (e.g., roads, landings, skid trails) that can influence watershed conditions. Activities conducted in riparian zones as part of commercial timber harvest can result in increased sediment delivery and elevated surface water temperatures by reducing stream shade and/or contributing to sediment delivery.
  - b. **Vegetation and Fuels Management:** In addition to timber harvesting, Federal Agencies manage vegetation for forest health, rehabilitation, and fuels management. Management may include understory and overstory thinning, cultural burns, prescribed burns, mastication of fuels, and other means to improve forest health and resiliency. Due to increased wildfire activity on federal lands, Federal Agencies are taking steps to increase fuels reduction projects surrounding wildland urban interfaces to reduce the likelihood and severity of wildfire and protect communities at risk.

- c. **Roads and Trails:** Construction, maintenance, upgrades, storm proofing, and decommissioning of roads and motor vehicle trails<sup>10</sup>. Roads constitute the largest anthropogenic source of chronic and episodic sediment delivery to waterbodies and therefore require prioritization for treatments and implementation of BMPs. This Order regulates road construction, maintenance, and use on federal lands through implementation of management measures and includes most road and watercourse crossing upgrades conducted through the WARP. See controllable sediment discharge source-specific Findings E.2-18 and Conditions D.1-6.
- d. **Recreational Facilities Management:** Development, maintenance, and management of recreational facilities such as campgrounds, staging areas or parking lots, high use recreation sites, and recreational event locations. The construction or maintenance of recreation facilities may require ground disturbing operations and recreational use activities may result in nonpoint source pollution as well as aquatic or riparian habitat alteration<sup>11</sup>.
- e. **Livestock Grazing:** Grazing of privately-owned animals on federal lands for food/forage and/or for the purposes of fuels management or other management objectives. Federal Agencies conduct range monitoring to inform the development of annual operating instructions and grazing permits, or other similar authorizing mechanisms that provide for adaptive management of grazing allotments. Livestock grazing has the potential to impact water quality through increased surface erosion from hoof action, changes to rates of surface water runoff and/or groundwater infiltration, changes in composition and function of native vegetation, increased solar radiation, and introduction of animal wastes. These actions may reduce the stream shade of watercourses in allotments and the capacity of those watercourses to trap sediment and may contribute nutrients and pathogens contained in fecal matter. Grazing activities must be appropriately managed by the Administrative Units and the grazing permittee to ensure that activities are complying with Federal Guidance. See livestock grazing-specific Findings E.19-24 and Conditions F.1-9.
- f. **Emergency Activities:** Emergency Activities may include fire suppression and flood response<sup>12</sup> activities. Fire suppression activities may generate sediment and impact designated riparian zones during and after the firefighting process, which may include road construction, re-opening of old roads, fire line construction and repair, and back-burning.

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<sup>10</sup> This Order applies to any federal land management activity involving road- and motor vehicle trail-related activities, including those roads associated with mining.

<sup>11</sup> When federal projects or activities – including ground-disturbing management measures implemented pursuant to the Proposed Project – would disturb greater than one acre of land, federal agencies may be subject to the Construction General Permit.

<sup>12</sup> “Flood response” activities are actions necessary to address infrastructure (e.g., roads or watercourse crossings) damage resulting from a storm event.

Each Federal Agency has conditions and processes in its Federal Guidance to address fire suppression activities, including guidance for fueling equipment, use of fire retardants, and other components of fire suppression. During an emergency, this Order automatically authorizes a Federal Agency to conduct necessary response actions to mitigate harm to life, property, or important natural or cultural resources, including implementation of post-fire suppression repair actions. Typically, after, but sometimes in conjunction with, Fire Suppression Damage Repair, some Federal Agencies conduct Burned Area Emergency Response<sup>13</sup> evaluations to identify and prescribe protection measures for resources at risk. Burned Area Emergency Response activities are considered a component of emergency response, though projects following Burned Area Emergency Response that are conducted through the NEPA process or with a NEPA categorical exclusion require coverage under this Order. Federal Agencies adhere to their Federal Guidance when conducting any emergency activities to minimize impacts of the suppression activities on water quality. See emergency activities-specific Findings E.25-29 and Conditions G.1-2.

- g. **Fire Recovery:** Fire recovery operations include management measures such as post-fire salvage, vegetation management, and other rehabilitation activities. Some fire recovery projects may be conducted as part of emergency response activities depending upon the immediacy of the threat to life, property, infrastructure, and the environment.

#### **Activities Not Covered**

4. This Order does not authorize any discharges that require a separate permit from the State or North Coast Water Board or other agencies, such as activities that require a National Pollutant Discharge Elimination System point source permit or Clean Water Act section 401 water quality certification.
5. This Order does not authorize the discharge of waste to waters of the state from the following activities:
  - a. **Aquatic Habitat Restoration:** These activities are generally associated with stream channel and floodplain habitat improvements, large wood augmentation, fish-migration barrier removal, treatment of invasive plant species, wetland enhancement, and forest rehabilitation. These activities are restorative in nature and are designed to enhance the structure and function of aquatic habitat conditions, improve the riparian zone, and reduce long-term erosion and sedimentation.

The State Water Resources Control Board and North Coast Water Board maintain separate general permits to authorize aquatic habitat restoration

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<sup>13</sup> Information about Burned Area Emergency Response, or BAER, can be accessed at the following webpage: <https://www.nifc.gov/programs/post-fire-recovery>

projects, including the (1) General Water Quality Certification for Small Habitat Restoration Projects<sup>14</sup> and (2) the Statewide Restoration General Order<sup>15</sup>. Federal Agencies should contact the North Coast Water Board for guidance regarding which permit is best suited for a given aquatic habitat restoration project.

- b. **Mining:** Where prospecting- or mining-related actions discharge or have the potential to discharge waste(s) into waters of the state, the operator is required by state law to file a report of waste discharge with the North Coast Water Board and/or seek enrollment under the Industrial Storm Water General Permit<sup>16</sup> as necessary.
- c. **Application of herbicides or pesticides:** Federal Agencies may contact North Coast Water Board staff regarding proposed pesticide applications to determine if a North Coast Water Board permit is required.
- d. **Hazardous or human waste:** Any project activity that involves the handling, disposal, or treatment of any hazardous waste or any human waste is not authorized. Federal Agencies may contact North Coast Water Board staff regarding hazardous or human waste to determine if a North Coast Water Board permit is required.
- e. **Third parties conducting activities on federal lands:** Activities conducted by grazing permittees or other third parties under written authorization by the appropriate Federal Agency except as specified in Conditions I.1-2.
- f. **Land disturbance activities unrelated to silvicultural operations that disturb one or more acres:** Construction or demolition activities related to residential, commercial, or industrial development on federal lands, including but not limited to clearing, grading, grubbing, or excavation, that disturb one or more acres or are part of a larger common plan of development are subject to enrollment under the Construction Storm Water General Permit<sup>17</sup>.

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<sup>14</sup> Information regarding the General Water Quality Certification for Small Habitat Restoration Projects can be found at the following web address (see year 2012):  
[https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/generalorders.html](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html).

<sup>15</sup> Information regarding the Statewide Restoration General Order can be found at the following web address (see year 2022):  
[https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/generalorders.html](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html).

<sup>16</sup> Information regarding the statewide Industrial Storm Water program and the current permit may be accessed at the following webpage:  
[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/industrial.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.html).

<sup>17</sup> Information regarding the statewide Construction Storm Water program and the current permit may be accessed at the following webpage:  
[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html).

6. This Order does not authorize projects that, through a combination of size and intensity, would pose greater than a moderate risk to water quality. Projects that pose a greater than moderate risk to water quality must submit a separate Report of Waste Discharge and be covered under an individual Waste Discharge Requirements permit.

### **Project Activity Categories**

7. This Order, issued pursuant to Water Code section 13263, applies to two categories of activities, Category A and Category B, which are grouped according to the level of potential risk to water quality and consider the following factors:
  - a. the type of the activity;
  - b. the activity's proximity to water (e.g., inside a designated riparian zone vs. outside a designated riparian zone);
  - c. the type of proposed equipment (e.g., hand tools vs. heavy machinery);
  - d. the on-the-ground conditions where the activity takes place (e.g., equipment on steep ground vs. flat ground and soil and slope conditions); and
  - e. the activity's geographic setting (e.g., geomorphic province, such as the Coast Ranges, Modoc Plateau, Klamath Mountains, etc.) in the North Coast Region.
8. **Category A projects**<sup>18</sup> include activities that, as proposed, present a low risk to water quality and which are listed in Attachment A. This Order requires Federal Agencies to implement Federal Guidance and appropriate management measures for all Category A projects. Category A projects are automatically enrolled in this Order and **do not** require Federal Agencies to conduct subsequent project implementation monitoring and reporting.
9. **Category B projects** include activities that, as proposed, present a moderate risk to water quality and which are listed in Attachment B. This Order requires Federal Agencies to complete and submit a Notice of Intent (NOI) (i.e., application form) (Attachment D), implement Federal Guidance and appropriate management measures, and conduct project implementation monitoring and reporting as described in this Order and attached MRP (Attachment C). Category B projects require North Coast Water Board staff review and evaluation for compliance with this Order.
10. North Coast Water Board staff will evaluate projects for conformance with Order requirements and to determine conformance with its CEQA analysis,

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<sup>18</sup> Federal Agencies may propose to add additional types of activities to this category, subject to approval by the Regional Water Board Executive Officer.

an EIR (SCH number 2022090353). Following this evaluation, some projects may require alternative permitting and/or additional environmental analysis.

## **E. ACTIVITY-SPECIFIC FINDINGS**

1. This Order includes the following activity-specific findings in support of certain significant changes from the 2015 Waiver:
  - a. controllable sediment discharge sources (Findings E.2-18);
  - b. livestock grazing activities (Findings E.19-24); and
  - c. emergency activities (Findings E.25-29).

### **Controllable Sediment Discharge Sources**

2. Sediment is recognized as the most widespread pollutant affecting the health of watersheds in the North Coast Region. Although sediment is a natural and necessary component of all waterbodies, excess sediment degrades the quality of water and a watershed's ability to fully support its beneficial uses. Human-caused sedimentation of waterbodies comes from a wide range of activities, including many that are regulated through this Order. If not planned, implemented, and monitored carefully, activities such as timber harvest, road- and watercourse crossing-related work, livestock grazing, vegetation management, and recreation infrastructure can cause preventable sediment discharges to waters of the state. This Order includes regulatory conditions designed to prevent, minimize, or address these controllable sediment discharges to waterbodies.
3. Addressing controllable sediment sources is necessary to both prevent further sediment pollution and ecosystem impairment and maintain high quality, unimpaired waterbodies. As a result, this Order requires treatment of controllable sediment sources in all watersheds on federal lands regardless of Clean Water Act section 303(d) listing status for sediment.
4. This Order defines sediment discharges that can be prevented as "Controllable Sediment Discharge Source(s)", or "CSDS"<sup>19</sup>. The term CSDS replaces the term "legacy sediment site" which was previously used in the 2010 and 2015 Waivers. The criteria for what constitute a legacy sediment site and CSDS are identical. The purpose of this administrative change is to eliminate the word "legacy" from the term, since non-legacy sources (i.e., those caused by recent activities) can also meet the CSDS criteria.
5. A CSDS meets all the following conditions:
  - a. is discharging or has the potential to discharge sediment to waters of the state in violation of applicable water quality requirements;
  - b. was caused or affected by human activity; and

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<sup>19</sup> This Order uses "CSDS" as both a singular and plural noun.

- c. may feasibly and reasonably respond to prevention and minimization management activities.
6. The 2010 and 2015 Waivers required Federal Agencies to systematically address all CSDS located within a given Category B project area. Experience overseeing the implementation of the 2010 and 2015 Waivers has shown that the requirements to treat CSDS within Category B project areas had unintended consequences for certain project types, including but not necessarily limited to the following:
    - a. an ever-increasing backlog of CSDS treatment driven largely by activities responding to large wildfire events that are considered Category B type activities;
    - b. complicated project management due to disjointed project objectives (e.g., fuel management vs. addressing CSDS);
    - c. potential impediments to implementation of beneficial projects (e.g., community protection, restoration, forest resilience) due to CSDS treatment costs; and
    - d. limited resources being directed towards significantly degraded watershed areas when higher quality watersheds are a greater priority or vice versa.
  7. This Order replaces project-level treatment of CSDS with the Watershed Assessment and Recovery Program, which details how Administrative Units will systematically treat CSDS over time.

### **Watershed Assessment and Recovery Program**

8. The Watershed Assessment and Recovery Program, or WARP, is a new, iterative regulatory approach designed to support the implementation of water quality improvement projects on federal lands. The WARP is designed to satisfy the state and federal agencies' obligations to conform with provisions of the federal Clean Water Act and California's Porter-Cologne Water Quality Control Act.
9. The WARP establishes regulatory requirements for the USFS, BLM, and NPS to advance the treatment of CSDS across federal lands over time. The Program relies on a performance-based credit system that obligates treatment credit requirements for each Administrative Unit based on the water quality conditions and land management activities unique to these lands.
10. Administrative Units accrue credits through the annual treatment of CSDS, including those associated with road-related sediment discharges from various sources, such as hydrologically connected road surfaces and inboard ditches, road surface and cutslope erosion sources, unstable areas, gully and rill erosion, stream diversions, and failing or compromised watercourse crossings structures.



11. The WARP provides the Administrative Units with some compliance flexibility for a portion of their CSDS treatment credit obligations by allowing for alternative actions that protect or improve water quality, including but not limited to aquatic habitat restoration<sup>20</sup> activities, forest resilience and climate adaptation treatments, comprehensive planning strategies, projects conducted in partnership with California Native American Tribes and Black, Indigenous, Latinx, Asian, and other communities of color<sup>21</sup>, and certain monitoring and adaptive management actions.
12. WARP credit obligations are intended to be adjusted over time, as treatments are applied, watershed conditions change, and management activities evolve.
13. Attachment F to this Order provides detailed information about the WARP, including but not limited to its treatment credit methodology, assignment of treatment credit obligations per Administrative Unit, creditable pollutant source treatment activities, alternative credit generating activities, prioritized waterbody planning, and reducing credit obligations. Attachment D, the Notice of Intent (enrollment form), includes procedures for requesting enrollment under the Federal Lands Permit and proposing creditable activities.
14. The Federal Lands Permit's Monitoring and Reporting Program Order No. R1-2024-0012 (Attachment C) describes the monitoring and reporting requirements associated with the WARP, including but not limited to, annual reporting on creditable activities and a Five-Year Retrospective. The MRP also includes procedures for documenting completion of an approved credit earning activity, procedures for seeking changes to an Administrative Unit's treatment credit obligations, and more.
15. Conformance with the WARP is a requirement of the Order and constitutes sediment, temperature, dissolved oxygen and nutrient TMDL compliance for activities covered under this Order so long as the Administrative Unit complies with WARP requirements pursuant to Conditions D.1-6 of this Order and Attachment F.
16. The WARP and its associated monitoring and reporting requirements are issued pursuant to Water Code sections 13267 and 13304.
17. Noncompliance with the WARP requirements may result in a notice of violation, site-specific cleanup and abatement order, time schedule order

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<sup>20</sup> See Finding D.5.a. above for guidance on permitting pathways for aquatic habitat restoration projects.

<sup>21</sup> The North Coast Water Board supports and encourages projects that advance equity and/or reduce water quality impacts in Black, Indigenous, Latinx, Asian, and other communities of color and are aligned with the goals of the Racial Equity Resolution for the North Coast Region, statewide Water Boards' Racial Equity Action Plan, future Racial Equity Action Plan for the North Coast Region, and the North Coast Water Board's Racial Equity Initiative at large.

pursuant to Water Code section 13308, and/or additional progressive enforcement actions.

18. North Coast Water Board staff will provide an update on WARP compliance to the North Coast Water Board every five years following Order adoption. The update will include a description of the performance of Administrative Units' implementation of the WARP and Order and MRP compliance.

### **Livestock Grazing Activities**

19. This Order provides regulatory coverage to those Federal Agencies that authorize private livestock grazing activities on the federal lands within the North Coast Region. All grazing activities on federal lands are subject to the conditions of this Order regardless of the enrollment status of any grazing allotment under the 2010 and 2015 Waivers.
20. This Order requires Administrative Units who permit livestock grazing to ensure implementation of BMPs and associated management measures provided in Federal Guidance. Federal Guidance documents include many BMPs pertaining to grazing, such as the Standards and Guidelines adopted as part of the Northwest Forest Plan and its associated Aquatic Conservation Strategy objectives.
21. Private parties who are authorized by an Administrative Unit to conduct livestock grazing on federal lands are referred to in this permit as "grazing permittees" and the federal permit authorized by an Administrative Unit as a "grazing permit" for the purposes of this Order. Administrative Units issue guidance documents, such as Annual Operating Instructions (AOIs), to grazing permittees that specify the allowed operational activities within the grazing permit.
22. Administrative Units authorizing livestock grazing are required to ensure that grazing activities are conducted in a manner consistent with approved grazing permits and associated Annual Operating Instructions. To be covered by this Order, Administrative Units must oversee and adaptively manage grazing activities to conform with applicable Federal Guidance standards, management measures, and applicable conditions of this Order to ensure that water quality is being protected.
23. Administrative Units are required to conduct sufficient monitoring of grazing allotments to verify compliance with grazing permits. North Coast Water Board staff intend to conduct periodic monitoring with and without Administrative Units and grazing permittees to verify compliance with Federal Guidance standards and water quality standards and Order conditions.
24. Failure by an Administrative Unit to comply with Federal Guidance, comply with Conditions F.1-9 of this Order, or manage a grazing allotment in a manner that impacts or threatens to impact water quality may result in progressive enforcement actions by the North Coast Water Board. Enforcement actions by the North Coast Water Board against an

Administrative Unit may include any of the following: notice of violation, request for technical documents order, cleanup and abatement order, or a time schedule order. Although grazing permittees are not directly permitted by this Order, the North Coast Water Board reserves the right to take any enforcement action authorized by law against a grazing permittee for discharges of waste.

### **Emergency Activities**

25. California is facing a growing forest and wildfire crisis which is leading to an increase in emergency activities on federal lands. Decades of fire suppression, coupled with the increasing impacts of climate change, have dramatically increased wildfire size and intensity. High severity wildfires result in the loss of significant vegetation, canopy, and root strength, increased hydrophobic soils, and can lead to adverse impacts to water quality through increases in erosion, landslide frequency, sediment yield, turbidity, peak flows and flooding, temperatures, and other parameters.
26. Timely management can help to mitigate the impacts to water quality from wildfire. For example, installation of erosion control measures, reconstruction of appropriately sized drainage structures, and construction of critical dips can help reduce the potential for sediment discharges to waterbodies. Additionally, it is often necessary to remove hazard trees to protect the public and agency personnel and salvage dead and dying trees with subsequent replanting to accelerate forest rehabilitation. In some cases, these actions may result in short-term impacts that cannot be mitigated to less-than-significant but nevertheless can and should be implemented in a timely manner.
27. During emergency responses, the responsible Federal Agency official is authorized to take actions necessary to control the immediate impacts of the emergency and to mitigate harm to life, property, or important natural or cultural resources. When taking such actions, the responsible official must consider the probable environmental consequences of the emergency action and mitigate foreseeable adverse environmental effects to the extent practical<sup>22</sup> (Conditions G.1-2).
28. The formal process for submitting a report of waste discharge and processing an individual WDR or waiver takes many months and unduly delays recovery. Providing coverage under the emergency exemption discussed in Conditions G.1-2 is an appropriate response in such cases, subject to Order conditions.
29. This Order authorizes discharges from emergency actions referenced in Finding D.3.f. These activities and those specific actions necessary to prevent

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<sup>22</sup> 36 CFR § 220.4 General requirements: NEPA (42 U.S.C. 4332(2)(C)).(b)(1).

or mitigate an emergency (does not include long-term projects) are exempt from CEQA<sup>23</sup>.

## F. MONITORING AND REPORTING

1. Monitoring and reporting requirements pursuant to Water Code section 13267 are contained in the associated MRP, Attachment C of this Order. This Order and its associated MRP largely rely upon existing Federal Agency strategies for project and activity level monitoring and/or in-channel monitoring.
2. Different types of monitoring are necessary to support distinct monitoring objectives. *Project implementation monitoring and effectiveness monitoring* (Attachment C Section VI) is conducted to identify whether management measures have been conducted as designed and are functioning to protect water quality. *In-channel monitoring* (Attachment C Section IX) typically requires more detailed qualitative and quantitative measurements including physical habitat monitoring, vegetation monitoring, biological assessment, water quality, and other measures of watershed biological integrity, and is used for purposes of overall waterbody assessments, determining trends in waterbody conditions, and to inform CWA section 303(d) listing or delisting decisions.
3. The Federal Agencies regulated by this Order manage vastly different landscapes and land use activities which warrant unique monitoring objectives, procedures, and focused water quality targets. Together, these differences present a challenge to the creation of a one-size-fits-all monitoring strategy, and therefore warrant a tailored approach for different Federal Agencies and Administrative Units. As such, the requirements in the MRP are intended to leverage the Federal Agencies' existing protocols, management measures, monitoring resources, and infrastructure to comply with the objectives of this Order.
4. To address these distinct monitoring needs, this Order contains conditions that require Federal Agencies to:
  - a. implement the applicable Federal Guidance documents for each Administrative Unit;
  - b. adhere to management measures developed for an individual project or activity, such as on-the-ground prescriptions, BMPs, and Project Design Features developed for a specific project;
  - c. commit to procedures that ensure implementation of prescriptions that provide water quality protections; and
  - d. implement monitoring requirements to ensure adherence to on-the-ground prescriptions and to evaluate their effectiveness.

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<sup>23</sup> Cal. Code Regs., tit. 14, section 15269.

5. Federal Agencies translate general BMPs into site-specific on-the-ground prescriptions for a project or activity. Those on-the-ground prescriptions are then included in contracts, grazing permits, or other agreements. The MRP requires evaluation of implementation and effectiveness of on-the-ground prescriptions at the contract or timber sale-level.

## **G. SUPPLEMENTAL FINDINGS**

1. Attachment C1 of this Order, Supplemental Monitoring and Reporting Program Findings, contains additional findings related to the MRP. Attachment G of this Order, Supplemental Order Findings, contains findings related to 1) the legal and regulatory framework that supports the North Coast Water Board's issuance and implementation of this Order, including information regarding how the North Coast Water Board implements elements of the Federal Clean Water Act, California's Porter-Cologne Water Quality Control Act, the Basin Plan, and state and regional policies<sup>24</sup> designed to protect and restore the beneficial uses of waters of the state; 2) tribal consultations and outreach and engagement to the public and disadvantaged communities to inform the development of this Order and associated MRP; and 3) Federal Agency-specific information for the USFS, BLM, and NPS that describes agency-specific documents or processes that pertain to the implementation and/or enforcement of the Federal Lands Permit. Attachments F and F1 contain additional findings related to the WARP. These Attachments are incorporated into and constitute Findings for this Order.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Water Code sections 13263, 13267, and 13304, as applicable, the Federal Agencies must each individually comply with the following:

## **II. CONDITIONS**

### **A. PROJECT PLANNING**

1. Federal Agencies must facilitate early North Coast Water Board involvement in the NEPA project planning process. North Coast Water Board involvement may include, but is not limited to, pre-project consultations and inspections and review of NEPA scoping and draft documents.
2. Federal Agencies must conduct an interdisciplinary review of proposed project activities and identify on-the-ground prescriptions needed to implement Federal

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<sup>24</sup> State Water Resources Control Board and North Coast Water Board policies applicable to this Order include, but are not limited to the following: *Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program*; *Statement of Policy With Respect to Maintaining High Quality of Waters in California*; *Policy for the Implementation of the Water Quality Objective for Temperature*; *Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters in the North Coast Region*; *the Water Quality Enforcement Policy*; and *Policy in Support of Restoration in the North Coast Region*.

Guidance and any additional necessary water quality protection measures for a given proposed activity.

3. To be considered as adequate for Federal Lands Permit enrollment, Federal Agencies must identify within NEPA documents whether proposed activities include:
  - a. management in designated riparian zones;
  - b. road, landing, and watercourse crossing construction and reconstruction;
  - c. heavy equipment use;
  - d. vegetation management, including timber harvest;
  - e. prescribed fire; and/or
  - f. forest restoration activities.
4. Federal Agencies must include project-specific prescriptions, such as management measures, BMPs, Project Design Features, and/or Standard Project Requirements<sup>25</sup>, within NEPA documents.
5. Federal Agencies must identify Category B activities 1 through 6 in Attachment B as Category A activities for projects located in the Lost River and Butte Valley Creek Hydrologic Units.

## **B. PROJECT ENROLLMENT AND TERMINATION**

1. Federal Agencies must submit a complete NOI (Attachment D) signed by an Authorized Representative for all projects eligible for Category B coverage under this Order. The NOI and related materials must be submitted in a searchable Portable Document Format (PDF) by email to [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov) or to any future online data submission tool.
2. For projects that include Category B activities, Federal Agencies must comply with project implementation monitoring and reporting requirements pursuant to MRP Section VI (Attachment C).
3. For projects that include both Category A and B activities, the Federal Agency must identify the project as Category B. Federal Agency staff must contact North Coast Water Board staff if they require assistance determining whether an activity qualifies as Category A or B.
4. If a Federal Agency conducts Category B activities to abate hazardous conditions after a wildfire and prior to project enrollment under this Order, subject to emergency exemptions identified in California Code of Regulations, title 14,

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<sup>25</sup> Federal Agencies may use terms such as “project design features” and “best management practices” differently. These references are included in the definition of management measures, which is defined in the Glossary of Terms and Acronyms, Attachment H. Refer to the appropriate Federal Guidance for agency-specific term definitions.

section 15269, the Administrative Unit must complete the last question in Section 6 of the NOI for any subsequent disaster recovery project in that same area to describe which activities were conducted.

5. For Category B project activities subject to NEPA, the Federal Agency must submit an NOI after the NEPA decision (or issuance of a Determination of NEPA Adequacy) and at least 30 days prior to anticipated commencement of on-the-ground activities.
6. For projects that are anticipated to be implemented over a long period of time and include phased planning, the Federal Agency may apply for Federal Lands Permit coverage based on project phases.
7. North Coast Water Board staff will review NOIs for completeness and eligibility. The North Coast Water Board Executive Officer will accept, return, or deny the NOI in writing within 30 days from NOI submittal. The North Coast Water Board Executive Officer has the discretion to adjust timeframes at the written request of a Federal Agency or as otherwise needed.
8. North Coast Water Board and Administrative Unit staff should meet annually, or as necessary, to discuss the status of enrolled projects, WARP implementation, and to rectify any issues with Order and/or MRP compliance.
9. Federal Agencies must submit a Notice of Termination (NOT) (Attachment E) upon Category B project completion certifying that all the conditions and monitoring and reporting required by this Order and attached MRP have been met. Project enrollment under this Order must be terminated upon receipt of a Termination of Coverage letter from the Executive Officer.

### C. FEDERAL GUIDANCE

1. Federal lands are managed according to the federal planning frameworks, which are composed of guidance documents applied through a nesting or hierarchy of spatial scales (e.g., national, regional, province, forest, district, watershed, project site) as described below. These types of Federal Guidance Documents are the focus of this section. The North Coast Water Board considers each Federal Agency's adherence to their applicable Federal Guidance Documents as foundational to compliance with this Order.
  - a. Federal manuals provide **national** direction for federal lands.
  - b. Federal handbooks and guidelines provide **regional** policy direction.
  - c. The NWFP and SNFP provide overall guidance on a **multiple-USFS National Forest or BLM Field Office scale**.
  - d. Land Resource Management Plans (LRMPs), Resource or Joint Resource Management Plans, and General Management Plans are developed by and provide guidance for **individual Administrative Units**.

- e. The Watershed Condition Framework<sup>26</sup> and Watershed Restoration Action Plans (WRAPs) guide watershed assessment and restoration on a watershed scale for **individual USFS National Forests**.
2. All activities undertaken by Federal Agencies must comply with Federal Agency-specific Federal Guidance Documents, as defined in Attachments G and H, and applicable federal BMPs for water quality protection identified in Conditions C.3-5 below.
3. Reference to Federal Guidance Documents includes any modifications to those documents during the life of this Order, so long as the modifications are equally or more protective of water quality as determined by the Executive Officer. Federal Agencies must submit scoping request letters or other information related to any proposed modifications to Federal Guidance Documents described in this Order. Such correspondence must be delivered electronically to the North Coast Water Board and copy the appropriate North Coast Water Board liaison<sup>27</sup>. North Coast Water Board staff will review and comment on proposed modifications to Federal Guidance Documents.
4. Federal Agencies must conduct activities in accordance with the project description in the project's accompanying NEPA document, including any project modifications and the specific on-the-ground prescriptions designed to implement the management measures identified to avoid any adverse impact(s) to water quality. Project-specific management measures constitute Federal Guidance within those project areas. This includes both smaller project NEPA and larger NEPA documents that cover all or part of an Administrative Unit.
5. The NPS and other Federal Agencies must implement management measures of similar water quality protection as described in their respective Federal Guidance Documents.

#### **D. WATERSHED ASSESSMENT AND RECOVERY PROGRAM**

As described in Findings E.8-18, the WARP establishes regulatory requirements for the USFS, BLM, and NPS to advance the treatment of CSDS over time. The WARP relies on a performance-based credit system developed for each Administrative Unit based on the water quality conditions and land management activities of its lands.

In addition to supplemental findings in Attachment G, Attachment F to this Order provides detailed information about the WARP, including but not limited to, the

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<sup>26</sup> USDA, 2011. Watershed Condition Framework.

<sup>27</sup> A list of staff liaisons to each Administrative Unit is located on the North Coast Water Board's Federal Lands Permitting webpage: [https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/forest\\_activities/federal\\_lands/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/forest_activities/federal_lands/).



treatment credit methodology and assignment of initial obligations to each Administrative Unit, descriptions of creditable pollutant source treatment activities, alternative credit generating activities, credit multipliers, and processes for reducing annual credit obligations.

### **WARP Requirements**

1. Administrative Units of the USFS, BLM, and NPS in the North Coast Region must complete annual treatment credit obligations described in Attachment F by December 31, 2025, and annually thereafter. Compliance with annual treatment credit obligations will be assessed by averaging treatment credits over a 5-year period.
2. Administrative Units should work closely with the appropriate North Coast Water Board Federal Lands Permit liaison regarding compliance with the WARP, including but not limited to submitting information in the Notice of Intent.
3. Administrative Units must submit written requests for any modification to the WARP treatment credit obligations within Attachment F to the North Coast Water Board Executive Officer for review, comment, and approval. Requests for modification to the WARP treatment credit obligations included in Attachment F for an individual Administrative Unit must include sufficient detail and supporting information to support the request for revision. WARP monitoring and implementation requirements are issued pursuant to Water Code sections 13267 and 13304 and may be modified by the North Coast Water Board Executive Officer.
4. At the onset of the fourth year of WARP implementation during any five-year reporting cycle, Administrative Units may request extensions if they determine that they are unlikely to meet their annual credit treatment obligations, assessed as a five-year average. WARP compliance extension requests will be considered if reasonable progress and/or a good-faith effort to implement the creditable activities can be demonstrated by the Administrative Unit. Deadline extension requests will be subject to North Coast Water Board Executive Officer review and approval. Deadline extension requests must be submitted in writing and include the following information:
  - a. a discussion of and supporting information for the deadline extension request;
  - b. a discussion of and supporting information documenting WARP implementation progress; and
  - c. a proposed alternative date for meeting the WARP treatment credit obligations.
5. Administrative Units must submit a complete NOI (Attachment D) whenever they are seeking enrollment of a Category B project under this Order and must include information pertaining to the types of activities proposed in a project that may qualify for WARP crediting. North Coast Water Board staff

will review, accept, return, deny, or comment on all NOIs prior to enrolling projects under the Order.

6. Implementation of and compliance with the WARP must be demonstrated through submittal of the annual WARP Tracking Form and five-year retrospective report described in the MRP (see Attachment C, Section IV.A).

## **E. RIPARIAN ZONE MANAGEMENT**

1. Federal Agencies must manage and maintain designated riparian zones pursuant to agency-specific Federal Guidance.
2. Except as provided in Condition E.3, Federal Agencies must protect site-specific potential effective shade conditions as described in the Temperature Policy (see Attachment G, Section H).
3. Exceptions to Condition E.2 above require a written justification in the project NOI. Exceptions will be considered if the project protects or enhances site-specific potential effective shade conditions. The justification must identify the proposed canopy reduction and expected recovery time, provide an estimate of the pre- and post-project shade or solar impacts, and explain how such an exception will result in a net long-term benefit to water quality and stream temperatures.
4. Except as provided in Condition E.5, Federal Agencies must retain mature stream bank trees and their roots that provide or contribute to stream bank stability for ephemeral, intermittent, and perennial watercourses.
5. Exceptions to Condition E.4 above requires a written justification in the NOI. Exceptions will be considered on a case-by-case basis but must identify the rationale for removing mature stream bank trees, the potential impacts to the associated waterbody, and measures to be taken to avoid, minimize or mitigate for their removal.
6. Where prescribed or cultural fire management activities are conducted within designated riparian zones, Federal Agencies must prevent, minimize, and mitigate discharges to waters of the state by implementing the appropriate BMPs or other standard erosion control techniques.

## **F. LIVESTOCK GRAZING**

1. Grazing allotments that contain only ephemeral watercourses, regardless of Order enrollment status, are excluded from compliance with the Livestock Grazing-specific conditions in the remainder of this section.
2. Administrative Units must ensure that grazing activities comply with Aquatic Conservation Strategy or Aquatic Management Strategy goals and grazing-related standards and BMPs included in Federal Guidance Documents.

3. Administrative Units must comply with management measures that minimize, control, and prevent the discharge of pollutants (e.g., sediment, bacteria, dissolved oxygen, and nutrients) and elevated solar radiation loads from livestock grazing activities that affect federal lands in the North Coast Region. The following are management measures that will minimize, control, and prevent the discharge of pollutants (e.g., sediment, bacteria, and nutrients) and elevated solar radiation loads from livestock grazing activities to waters of the state. Administrative Units must implement management measures to comply with these standard conditions or management measures developed in consultation with North Coast Water Board staff that provide equal or better protection:
  - a. riparian areas and wetlands are managed in a manner that allows the natural establishment and abundance of native riparian and wetland plant species;
  - b. riparian areas and wetlands are managed in a manner that allows sufficient vegetation to minimize, control, and prevent surface erosion;
  - c. riparian areas and wetlands are managed in a manner that maintains their essential functions supporting beneficial uses (e.g., sediment filtering, woody debris recruitment, streambank stabilization, nutrient cycling, pollutant filtering, shading);
  - d. grazed lands are managed in a manner that minimizes, controls, and prevents pollutant discharges;
  - e. grazing within riparian corridors and wetlands occurs for short durations, and only when forage consisting of non-woody vegetation is available;
  - f. all livestock must be removed from the allotments by the off dates specified in the grazing permit and Annual Operating Instructions; and
  - g. any drift of livestock from an allotment to areas outside that allotment are prevented and, if identified, addressed.
4. Observations of non-conformance with Federal Guidance standards, Condition F.3 above, and/or potential impacts to water quality may result in additional monitoring and reporting requirements issued by the North Coast Water Board Executive Officer pursuant to Water Code section 13267 and/or progressive enforcement actions. Potential monitoring requirements may include but are not limited to bacteria or water chemistry sampling, evaluations of riparian vegetation composition, physical habitat assessments, biological community sampling, sediment discharge monitoring, and/or surface water temperature monitoring.
5. If management measures or grazing permit conditions on a grazing allotment are not adhered to, or if grazing activities are causing a discharge of waste that violates or threatens to violate water quality standards or other Basin Plan requirements, then the Federal Agency is responsible for working with the grazing permittee to immediately address the matter and to revise the AOI for the following year to reflect the appropriate protections.

6. Administrative Units must incorporate management measures, including Condition F.3, into grazing permits and the administration of Annual Operating Instructions that comply with Condition E.2 to retain site-specific potential effective shade.
7. Administrative Units must provide copies of the Order to all existing and new grazing permittees and provide certification of this requirement to the North Coast Water Board Executive Officer by one year from the adoption date of this permit.
8. During renewal of the NEPA analysis for a grazing allotment, Administrative Units must include the following in the revised grazing permit:
  - a. specific management measures developed for the activity that implement the Federal Guidance management measures and conforms with Aquatic Conservation Strategy or Aquatic Management Strategy standards and any additional water quality measures identified in the NEPA document and other environmental documents supporting the project;
  - b. a copy of the Order; and
  - c. a signed certification form stating that the grazing permittee has received a copy of this Order.
9. In addition to reporting requirements described in the MRP, Administrative Units must make information from inspections and monitoring of conditions on grazing allotments available to North Coast Water Board staff upon request.

## **G. EMERGENCIES**

1. During emergency responses, the responsible Federal Agency official is authorized to take actions necessary to control the immediate impacts of the emergency and to mitigate harm to life, property, or important natural or cultural resources. When taking such actions, the responsible official must consider the probable environmental consequences of the emergency action and mitigate foreseeable adverse environmental effects to the extent practical<sup>28</sup>. These types of actions may be required prior to enrollment of a natural disaster or fire recovery project under this Order.
2. Portions of a natural disaster or fire recovery project submitted under Category B may qualify for the emergency exemption upon a finding by the North Coast Water Board Executive Officer. Administrative Units must describe in the NOI how the project meets the description under California Code of Regulations, title 14, section 15269, and additional information contained in Section 6 of the NOI.

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<sup>28</sup> 36 CFR section 220.4 General requirements: NEPA (42 U.S.C. 4332(2)(C)).(b)(1).

## **H. MONITORING AND REPORTING**

1. Administrative Units must comply with the monitoring and reporting requirements contained in the MRP attached to this Order. Monitoring and reporting requirements are issued pursuant to Water Code section 13267 and may be modified as necessary by the North Coast Water Board Executive Officer. Other federal agencies in the North Coast Region, as identified in Finding B.3, who apply for Category B coverage under this Order are subject only to Sections I, II, VI, and X of the MRP (General Conditions, Discharge Notifications, Monitoring for Category B Projects, and California Environmental Quality Act Mitigation Monitoring and Reporting Program Compliance, respectively).

## **I. THIRD PARTY INVOLVEMENT**

1. Federal Agencies must include site-specific management measures contained within project NEPA documents in all contracts, agreements, and other instruments used to direct the activities of grazing permittees and any activities conducted by third parties specified in this Order.
2. Federal Agencies must provide copies of this Order to grazing permittees and any other third parties. Administrative Units maintain exclusive authority to determine whether third parties are complying with the terms and conditions of the Federal Agency's contract.

## **J. GENERAL CONDITIONS**

1. Compliance with all conditions of this Order constitutes compliance with sediment, temperature, dissolved oxygen, and nutrient TMDL implementation for those activities covered by this Order, which includes:
  - a. inventory, prioritization, and treatment of CSDS through the implementation of a WARP;
  - b. application of project-specific on-the-ground prescriptions, project design features, and/or best management practices that prevent and minimize sediment delivery to surface waters;
  - c. retention of existing effective shade and attainment of the potential effective shade that site-specific conditions (e.g., soils, hydrology, aspect, etc.) allow;
  - d. compliance with the conditions of the attached MRP; and
  - e. compliance with federal lands grazing requirements.
2. Discharges of waste not specifically regulated under this Order or in compliance with the Water Code are prohibited.
3. Activities authorized under this Order must not cause pollution, contamination, or nuisance as defined by Water Code section 13050.

4. Federal Agencies must not cause or contribute to an exceedance in the receiving waters of any applicable Basin Plan water quality objective (whether numeric or narrative), or any other applicable Basin Plan or policy provision. Specific applicable objectives include, but are not limited to the following:
  - a. Indicator Bacteria
  - b. Biostimulatory Substances
  - c. Dissolved Oxygen
  - d. Oil and Grease
  - e. Pesticides
  - f. Sediment
  - g. Settleable Material
  - h. Suspended Material
  - i. Toxicity
  - j. Temperature
  - k. Turbidity
5. Federal Agencies must comply with the mitigation measures for Biological Resources identified in the supporting EIR (SCH number 2022090353). The EIR identified potential significant impacts to Biological Resources that may result from the implementation of this Order. Mitigation measures to address these potential significant impacts are identified in the Mitigation Monitoring and Reporting Program of the supporting EIR, Appendix C. This Order requires Administrative Units to implement the identified mitigation measures and monitor and report the implementation of the mitigation measures in accordance with CEQA. CEQA mitigation measures identified in the EIR, including the conditions in the Mitigation Monitoring and Reporting Program, constitute enforceable conditions under this Order.
6. Nothing in this Order shall be interpreted to require obligation or payment of funds in violation of the Antideficiency Act, 31 U.S.C. § 1341. Specific projects or activities that involve the commitment of funds, services, or property are contingent upon the availability of appropriated funds. Pursuant to federal Executive Order 12088, Dischargers must ensure sufficient funds for compliance with applicable pollution control standards are requested in their agency budgets. (43 Fed. Reg. 47707, 47708) (Oct. 13, 1978), Section 1-5 (Funding), revoked in part by Executive Order 13148 (65 Fed. Reg. 24595) (Apr. 21, 2000).

#### **K. ENROLLMENT OF PROJECTS UNDER PREVIOUS WAIVERS**

1. Projects currently enrolled under R1-2004-0015, R1-2010-0029, R1-2015-0021, and R1-2020-0021 (previous Waivers) may proceed under the conditions of those previous Waivers until August 24, 2025, after which time coverage will be administratively terminated.

2. Projects that will operate past August 24, 2025, and that meet the eligibility requirements for Category B under this Order must enroll under this Order. By February 24, 2025, each Administrative Unit must provide the North Coast Water Board Executive Officer the following:
  - a. a list of all existing Category B enrollments to be enrolled under this Order; and
  - b. a list of all existing Category B enrollments to be terminated under the previous Waivers.
3. North Coast Water Board staff will review the lists identified in section K.2.a-b, and, relying on the applications for those existing Category B enrollments, issue coverage under this Order for all existing listed projects and terminate coverage under the previous Waivers for all projects proposed to be terminated.
4. No additional projects will be enrolled under the previous Waivers after the adoption date of this Order.

This Order will become effective on August 15, 2024.

Certification:

I, Valerie Quinto, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on August 15, 2024.

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Valerie Quinto

Executive Officer

Order No. R1-2024-0012

Attachments

Attachment A – Category A Activities

Attachment B – Category B Activities

Federal Lands Permit – Order No. R1-2024-0012

Attachment C – Monitoring and Reporting Program No. R1-2024-0012

Attachment C1 – Supplemental Monitoring and Reporting Program Findings

Attachment C2 – Watershed Assessment and Recovery Program Tracking Form

Attachment D – Notice of Intent (Project Application Form)

Attachment E – Notice of Termination (Project Termination Form)

Attachment F – Watershed Assessment and Recovery Program No. R1-2024-0012

Attachment F1 – Watershed Assessment and Recovery Program Technical Analysis

Attachment G – Supplemental Order Findings

Attachment H – Glossary of Terms and Acronyms