

EXECUTIVE OFFICER'S SUMMARY REPORT
8:30 a.m., June 4, 2009
North Coast Regional Water Board
Hearing Room
5550 Skylane Boulevard, Suite A
Santa Rosa, California

ITEM: 6

SUBJECT: **PUBLIC HEARING** to Consider Adoption of a Mitigated Negative Declaration and Order No. R1-2009-0038, Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvesting Activities On Non-Federal Lands in the North Coast Region.

Today, the Regional Water Board will be considering adoption of tentative Order No. 2009-R1-0038, (attachment 1), which would revise the existing Categorical Waiver of Waste Discharge Requirements for Timber Harvesting Activities on Non-Federal Lands in the North Coast Region (the Categorical Waiver), Order No. R1-2004-0016. An Initial Study and draft Mitigated Negative Declaration to comply with the California Environmental Quality Act (CEQA) to support adoption of the Order is also to be considered concurrently with the tentative order (attachment 2).

The Regional Water Board adopted the current Categorical Waiver in 2004. The waiver expires on June 23, 2009. The Categorical Waiver is part of a multi-tiered regulatory approach, that includes: general Waste Discharge Requirements Order No 2004-0030 (GWDRs) for timber harvesting activities for projects that do not meet waiver criteria, a conditional waiver for timber harvesting activities on Federal lands, and several individual WDRs for larger watershed wide activities on private land.

The basic intent of the Categorical Waiver is to provide a framework to regulate those activities that are part of timber harvesting that pose a threat to water quality but that can be conditioned to lessen the potential impacts and waived from issuance of individual or general WDRs, while ensuring protection of water quality from discharges of sediment and temperature increases.

Proposed revisions to the Categorical Waiver address both minor (i.e., grammar and document organization) as well as more substantial revisions which include; expanding the waiver categories, and revising the eligibility criteria, application and enrollment procedures). New findings provide the rationale for waiving specific categories of timber harvesting activities and the conditions of the waiver.

The following is a list of the most notable of the proposed changes/addition:

- Development of an Erosion Control Plan (ECP) would be required of an entire NTMP (non-Industrial Management Plans) and THPs, with a grandfathering clause and compliance schedule for existing NTMPs.
- Two winter period inspections per year would be required for THPs and during active NTOs for NTMPs.
- As part of erosion and sediment control measures, surface runoff from logging roads would be required to be hydrologically disconnected.

- Landowners of NTMPs would be required to develop and submit a long term management plan for roads.
- Shade and canopy retention requirements exceeding those currently required by current Forest Practice Rules would be required in order to comply with the Basin Plan Temperature Objective.
- THPs that have clear cutting as the silvicultural technique would be allowed, with the condition of significantly widened stream side riparian management zones of 300, 200, and 100 feet on Class I, II, and III watercourses, respectively.

A Regional Board staff report provides technical details to support the tentative order and the recommended revisions to the current Categorical Waiver is attached (attachment 3).

The proposed revisions listed above are intended to comply with:

- a). The State Water Resources Control Board's (SWRCB) Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Implementation Policy) and,
- b). Total Maximum Daily Loads (TMDLs) for watersheds throughout the region, to prevent controllable sediment discharges, and protect and restore natural levels of shade to prevent elevating water temperatures, and reverse declines in populations of anadromous salmonids.

The Comment Period for the Categorical Waiver began on April 9, 2009 with the concurrent release of an initial study and draft mitigated negative declaration for the Categorical Waiver which updates the original negative declaration issued in 2004 to comply with the California Environmental Quality Act (CEQA) (attachment 2). Regional Board staff held public workshops in Fortuna on March 24, 2009 and in Yreka on April 8, 2009. The purpose of the workshops was both to inform interested members of the public of the proposed revisions to the Categorical Waiver as well as to receive comments from those members of the public. The current draft under consideration reflects changes to an early draft based on comments from members of the public at those workshops.

The Regional Water Board received 17 comment letters during the comment period that are included in the agenda package (attachment 4). Regional Water Board Staff written responses to all public comments received by May 9, 2009 are provided in attachment 5. Some modification of the draft proposed Categorical Waiver occurred as a result of comments received by agencies and the public. To help identify the changes, a copy of the tentative order with all the changes since the original draft highlighted in underline and strikeout is provided in attachment 6.

PRELIMINARY

STAFF RECOMMENDATION: Staff recommends adoption of the Mitigated Negative Declaration and Order No. R1-2009-0038.

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| Attachments | <ol style="list-style-type: none"> 1. Tentative Order No. R1-2009-0038 2. Initial study and mitigated negative declaration 3. Regional Board Staff Technical Report 4. Comment letters received 5. Response to comments 6. Comparison of tentative order in this agenda to original draft |
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