Draft

Functional Equivalent Document

Policy for Implementation and Enforcement of the
Nonpoint Source Pollution Control Program

December 2003

Division of Water Quality
STATE WATER RESOURCES CONTROL BOARD
California Environmental Protection Agency

STATE WATER RESOURCES
CONTROL BOARD
P.O. Box 100
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To request copies of the proposed Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program and the draft Functional Equivalent Document, please call Millie Arestad at (916) 341-5966.

Documents also are available at:

http://www.swrcb.ca.gov

Notice of Filing

To: Any Interested Person

From: State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Subject: Notice of Filing submitted under section 21080.5 of the Public Resources Code

Project Proponent: State Water Resources Control Board (SWRCB)

Project Title: Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program

Contact Person: Steve Fagundes (916) 341-5487

Project Location: State of California

Project Description: The Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Implementation and Enforcement Policy) was developed in response to the requirements of California Water Code section 13369(a). The Policy provides the SWRCB and the Regional Water Quality Control Boards (RWQCBs) with guidance for developing an integrated program for implementing and enforcing the "Plan for California's Nonpoint Source Pollution Control Program."

This notice is to advise that the SWRCB is considering adoption of the NPS Implementation and Enforcement Policy. Action on this Policy will be taken in accordance with an exemption under section 21080.5 of the Public Resources Code from the requirements to prepare an Environmental Impact Under the California Environmental Quality Act (CEQA) (Public Resources Code 2100 et seq.) and other applicable laws and regulations.

Copies of the Functional Equivalent Document can be downloaded from the SWRCB web site at (http://www.swrcb.ca.gov). Compact disc copies can be obtained from the Contact Person named above.

Comments on the proposed NPS Implementation and Enforcement Policy should be submitted by January 30, 2004.

Signed: _____ Date: December 18, 2003

Stan Martinson, Chief
Division of Water Quality
State Water Resources Control Board

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SECTION I. INTRODUCTION

Nonpoint source (NPS) pollution is the most serious water quality problem facing California. In 1988, the State Water Resources Control Board (SWRCB) adopted California's first *Nonpoint Source Management Plan* (1988 Plan). In spite of the investment of significant resources to address NPS pollution and improve water quality, NPS discharges continue to be responsible for the major water quality problems facing California. In December 1999, the SWRCB, in its continuing effort to control NPS discharges upgraded the 1988 Plan with adoption of the *Plan for California's Nonpoint Source Pollution Control Program* (NPS Program Plan), jointly developed by the SWRCB and the California Coastal Commission (CCC). Adoption of the NPS Program Plan brought the State into compliance with section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) and upgraded the 1988 Plan to comply with U.S. Environmental Protection Agency (U.S. EPA) requirements. The NPS Program Plan committed the State to the implementation of 61 NPS control management measures (MMs) by the year 2013, with the goal of controlling NPS pollution and restoring the quality of the State's waters. MM implementation is to be achieved through NPS discharger implementation of self-determined management practices (MPs) designed to prevent or control nonpoint sources of pollution. In 1999, Chapter 5.4 was added to the California Water Code (CWC). Among its requirements was the provision that the SWRCB develop guidance describing the process by which the SWRCB and the Regional Water Quality Control Boards (RWQCBs) will implement and enforce the State's NPS management plan. In response to this requirement, the SWRCB developed and proposes adoption of the *Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Implementation and Enforcement Policy), the subject of the proposed action described in this document.

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PURPOSE OF DOCUMENT

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The purpose of this document is to present the SWRCB's analysis of the need for and the effects of the proposed NPS Implementation and Enforcement Policy. The SWRCB must comply with the requirements of the California Environmental Quality Act (CEQA) when adopting state policy for water quality control. CEQA authorizes the Secretary of the Resources Agency to certify a regulatory program of a State agency as exempt from the requirements to prepare an Environmental Impact Report (EIR), Negative Declaration, or Initial Study if certain conditions are met. The process that the SWRCB is using to adopt the proposed Policy has received certification from the Resources Agency to be "functionally equivalent" to the CEQA process (Title 22, Code of Regulations, Section15251(g)). Therefore, this report is called a Functional Equivalent Document (FED) and fulfills the requirements of CEQA for preparation of an environmental document. The environmental impacts that could occur as a result of the proposed action are discussed under Section VI, "Environmental Effects of the Proposed Policy", and summarized in an Environmental Checklist in Section VII.

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BACKGROUND

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Nonpoint sources of pollution or polluted runoff are the result of a broad range of human activities. These include activities related to agricultural production, range management and animal containment operations; residential and commercial irrigation and landscape care; timber harvest; construction; and runoff from driveways, streets and highways. Sources of water are equally broad and could include rainfall, irrigation water, and wash water or drainage of any kind that is not a point source. The result is water moving across the landscape, paved or unpaved, and picking up and carrying with it any pollutants it encounters. Eventually, both water and pollutants enter our natural waterways, degrading water quality to the point that beneficial uses are affected and, in many cases, waterways become unfit for human or wildlife use.

To control nonpoint sources of pollution, the 1988 Plan was adopted by the SWRCB in response to the 1987 amendments to the Clean Water Act (CWA), the primary federal water quality protection statute. These amendments included a new section 319 titled, "Nonpoint Source Management Programs". Section 319 required the states to develop assessment reports and management programs describing the states' nonpoint source problems and setting forth a program to address these problems. Section 319 also authorized federal grants to the states to support implementation of the Management Programs. However, Congress appropriated no funds for the program until 1990. Since then, however, California has received and disbursed over $48,600,000 in federal grants to public and private collaborators for implementation of CWA 319(h) NPS control demonstration projects. These projects are

designed to provide "hands on" education and outreach on the prevention and control of NPS pollution and the restoration of the state's water bodies. Recipients include hundreds of California partnerships formed to provide leadership roles, and made up of public and private agencies and organizations throughout the state. Additional funds for NPS control and stream restoration have been made available through the State Revolving Fund Loan program, State Propositions 13, 40, and 50 and the Clean Beaches Initiative.

The State's 1988 Plan provided for a management program that focused on discharger implementation of self-selected methods, measures, or practices to meet their NPS control needs. Today these measures are known as management practices (MPs). They include, but are not limited to, structural and non-structural controls (e.g. operation and maintenance procedures). They can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

In recognition and acknowledgement of the many differing discharger attitudes toward their NPS control responsibilities, the 1988 Plan also described three general management approaches that might be adopted to address NPS problems. These ranged from the voluntary NPS control implementation actions taken by responsible dischargers to the need for the RWQCBs to issue waste discharge requirements (WDRs) and potentially take enforcement actions to achieve NPS control compliance.

In 1990, Congress enacted CZARA, in an additional effort to protect coastal waters from NPS pollution. In passing CZARA, Congress noted the link between coastal water quality and land use activities. At the same time the State was required to update the 1988 Plan to remain eligible for funding for water quality and coastal protection by U.S. EPA and the National Oceanographic and Atmospheric Administration (NOAA). In response, the SWRCB, in cooperation with the RWQCBs and the CCC developed the NPS Program Plan, to meet CZARA requirements and to update the state's 1988 Plan. The NPS Program Plan was conditionally approved by U. S. EPA and NOAA in 1998. To receive full approval, the SWRCB and CCC were required to show that they possessed the authority to implement and enforce the NPS Program Plan. The SWRCB complied with this requirement by citing the authorities given to it by the State's Porter-Cologne Water Quality Control Act (Porter-Cologne Act). The SWRCB and the CCC adopted the NPS Program Plan, and it was subsequently approved by U.S. EPA and NOAA in July 2000.

NPS pollution is the single greatest threat to water quality in California. According to statistics developed by U.S. EPA, 54 percent of California's polluted waterways are contaminated only by nonpoint sources. Another 45 percent are polluted by a combination of both point and nonpoint sources. The CWA section 305(b) report on water quality, which California submitted to U. S. EPA in 2003, included the State's CWA section 303(d) list of impaired waterbodies. The list approved by U. S. EPA includes 685 water quality limited segments and 1,883 water segment-pollutant combinations (i.e., waters that do not meet the water quality objectives established to protect designated beneficial uses). The CWA requires that total maximum daily loads (TMDLs) be established for all waters on the CWA section 303(d) list. To ensure water quality standards are met and beneficial uses are protected, allocations of pollutant loads to all sources are established for the pollutant(s) in question through the TMDL process.

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SECTION II. EXISTING REGULATORY CONDITIONS

FEDERAL CLEAN WATER AND STATE PORTER-COLOGNE WATER QUALITY CONTROL ACT

Current regulatory requirements for the control of nonpoint sources of pollution are found in both federal and State law. Those requirements are briefly discussed below.

The CWA is the principal federal statute governing water quality protection. The Porter-Cologne Act is the principal State statute governing water quality protection. The Porter-Cologne also authorizes the State to implement the federal CWA (CWC section 13000).

The CWA requires the states to adopt water quality standards. For the purposes of the CWA, water quality standards are the designated beneficial uses of the state's waters, criteria to protect those uses, and an antidegradation policy. In California, the SWRCB and RWQCBs have adopted water quality standards through their planning processes. The standards consist of designated beneficial uses, water quality objectives (which are equivalent to criteria) to protect these uses, and an antidegradation statement. Upon approval by U.S. EPA, the beneficial use designations and water quality objectives become federally approved standards.

For point source discharges to surface waters, the principal means by which water quality standards are implemented is through a permit program established under the CWA. In states with approved programs (including California), the state, rather than the U.S. EPA, has primary responsibility for issuing and administering permits. Under the CWA, however, NPS discharges are not subject to federal permitting requirements, nor are discharges to ground water. Nevertheless, under the CWA, the State is required to plan for water quality control of nonpoint sources of pollution, as well as to plan for control of point sources of pollution. In addition, water quality standards apply to the receiving water, regardless of whether the waterbody receives point or NPS discharges, or both.

The Porter-Cologne Act designates the SWRCB and RWQCBs as the State agencies with primary responsibility for water quality control in California and obligates them to address all discharges of waste that could affect the quality of the waters of the State, including potential nonpoint sources of pollution as well as point sources. To carry out this mandate, the Porter-Cologne Act has provided the SWRCB and RWQCBs with:

1. Planning authority to designate beneficial uses of the waters of the state, establish water quality objectives to protect those uses, and develop programs to implement those water quality objectives;

2. Administrative permitting authority in the form of WDRs, waivers of WDRs, and basin plan prohibitions; and

3. Enforcement options to ensure that dischargers comply with permitting requirements.

The Porter-Cologne Act applies broadly to all State waters, including surface waters, wetlands, and ground water; it covers waste discharges to land as well as to surface and groundwater, and applies to both point and nonpoint sources of pollution. In the Porter-Cologne Act, the legislature has declared that it is the policy of the State that:

1. The quality of all the waters of the State shall be protected;

2. All activities and factors that could affect the quality of state waters shall be regulated to attain the highest water quality that is reasonable; and

3. The State must be prepared to exercise its full power and jurisdiction to protect the quality of water in the State from degradation.

Planning authority under the Porter-Cologne Act extends to any activity or factor that may affect water quality. All water quality control plans are required to include implementation programs that must describe the nature of actions that are necessary to meet water quality objectives. Implementation programs also must include a time schedule and describe proposed monitoring activities to assess compliance with water quality objectives.

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In obligating the SWRCB and RWQCBs to address all discharges of waste that can affect water quality, including nonpoint sources, the Legislature provided the SWRCB and RWQCBs with administrative permitting authority in the form of administrative tools. These administrative tools are WDRs, waivers of WDRs, and basin plan prohibitions and these are used to address ongoing and proposed waste discharges. The SWRCB and RWQCBs use their permitting authorities to implement the requirements of applicable federal requirements, State policies, and State and regional water quality control plans. Just as the RWQCBs are obligated to address all NPS discharges of waste through one or more of the available administrative tools, they also are obligated to take steps to ensure that their NPS pollution control requirements are met. *The State Water Resources Control Board Enforcement Policy* (SWRCB Enforcement Policy), approved by the SWRCB in 2002, defines the enforcement options available to a RWQCB. These options range from an informal Notice of Violation to formal actions described in the Porter Cologne Act.

TOTAL MAXIMUM DAILY LOAD (TMDL) ACTIVITIES

As noted earlier, the CWA requires the State to develop TMDLs on all water bodies and water-body segments on the CWA section 303(d) list. TMDLs must account for all the pollutant sources that caused the CWA section 303(d) listing—including both point and nonpoint sources. The TMDL is a numerical quantity that identifies the present and near future maximum load of pollutants from point and nonpoint sources, in addition to those from background sources, that is necessary to achieve State water quality standards for a specific receiving water. The TMDL determined load also must take into account seasonal variations and an adequate margin of safety.

After TMDLs are established at a level necessary to achieve applicable water quality standards, waste (for nonpoint sources) and/or waste load (for point sources) allocations are made to the identified sources or parties who must take action to meet the allocations. The source allocations may be specific to agencies or persons (businesses), or by source category or sector. State developed TMDLs also include an implementation plan that describes the actions that will be taken to alleviate the impairment. Implementation plans identify enforceable features (e.g., prohibitions) and triggers for RWQCB action (e.g., performance standards). The TMDL implementation plans are incorporated into regional basin plans as enforceable basin plan amendments. The SWRCB is developing a TMDL Implementation Policy with a number of requirements that parallel those of NPS Implementation and Enforcement Policy. A monitoring strategy also must be developed upon which performance evaluation can be based and thus provide information that could indicate or document the need for adaptive management activities or consideration of revisions for phased TMDLs.

To date 19 TMDLs have gone through the full approval process including approval by U. S. EPA and 132 are at various stages of development or approval at the RWQCBs or the SWRCB.

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SECTION III. PROJECT DESCRIPTION

PROJECT DEFINITION

The project is the development of a State policy (NPS Implementation and Enforcement Policy) that provides guidance describing the process by which the SWRCB and RWQCBs will implement and enforce the NPS Program Plan. The policy recognizes the RWQCBs' responsibility to ensure that appropriate NPS implementation programs are in place to achieve the State's water quality goals and to protect water quality from NPS pollution. The policy provides guidance on the following aspects of NPS implementation programs:

(1) The use, responsibilities, and benefits of third-party programs in NPS implementation programs; and

(2) The key elements of an NPS implementation program. These include:

(a) A statement of the implementation program's ultimate objectives;

(b) A discussion of the potential MPs expected to be implemented to achieve the objectives, a selection process for the MPs, and a process to verify their implementation;

(c) A time schedule, where necessary, with appropriate milestones to achieve objectives;

(d) Feedback mechanisms to ascertain whether the program is achieving objectives; and

(e) Advance notice by the RWQCBs of potential consequences for failing to achieve the objectives.

STATEMENT OF GOALS

The SWRCB's goals for this project are to:

(1) Provide consistent statewide guidance on the role of third-party programs in implementing and enforcing the NPS Program Plan;

(2) Provide consistent statewide guidance on the key elements of a NPS implementation program; and

(3) Recognize the RWQCBs' responsibility to ensure that appropriate NPS implementation programs are in place to restore and maintain water quality standards and to protect state waters from NPS pollution.

PROPOSED ACTION

The proposed action is SWRCB adoption of the NPS Implementation and Enforcement Policy outlined in the Project Definition.

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SECTION IV. ENVIRONMENTAL SETTING

California presents a variety of environmental conditions, which range from the snow-covered peaks of the Sierra Nevada Mountains to the hot dry desert of Death Valley. Between these two extremes are almost unlimited climatic variations and precipitation patterns. The Pacific Ocean shoreline on the west presents one of the most scenic and unique coastlines in the world. The eastern boundary borders basin and range country. Between the mountain ranges to the east and the coastal ranges to the west are troughs and valleys aligned in a general north-south direction. The Sacramento, San Joaquin, and the Imperial Valleys in the north, central and south, respectively, form the major agricultural areas of the state, with the San Joaquin Valley having the distinction of being among the most agriculturally productive areas in the world. In addition to these major agricultural areas, the environmental conditions in California are favorable to specialty crops. The Salinas Valley in the central coast region is one of the few places in the world where artichokes are grown commercially and the Napa Valley in northern California is renown for its vineyards and wine. Crops grown in the state include most food crops, fruits and nuts, citrus, cotton and a variety of vegetables. The extensive agriculture in the State depends on irrigation water supplies with consequent runoff problems.

For water quality management, section 13200(a) of the Porter-Cologne Act divides the State into nine separate hydrologic regions. California is a state of geologic contrasts with the highest (Mount Whitney) and the lowest (Death Valley) elevations only 81 miles apart. The variety of environmental conditions in the state is a reflection of the variation in geology, topography, climate, vegetation, and land-use found in the many areas of the State. These factors, which account for different ecological conditions, as they relate to the nine different regions of the State, are discussed separately below. In addition, brief summaries of water quality conditions in each region are presented. The sources of the information provided in this section are the RWQCB basin plans and regional Watershed Management Initiative chapters and updates as prepared by each RWQCB, unless otherwise specified.

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North Coast Region (Region 1)

Porter-Cologne Act section 13200(a) describes the North Coast Region as that which comprises all basins, including the Klamath Lake and Lost River Basins, draining into the Pacific Ocean, from the California-Oregon state line to the southern boundary of the watershed of the Estero de San Antonio and Stemple Creek in Marin and Sonoma counties.

The northern part of the state bordering Oregon includes the Klamath Mountains, the Cascade Ranges, and the Modoc Plateau. The Klamath Mountains include a number of individual ranges: the South Fork Mountains, the Trinity Alps, the Scott Mountains, the Salmon Mountains and the Siskiyou Mountains. The Siskiyou Mountains form the most northerly arc, the trend swinging from north to northeast and east across the California-Oregon border.

Most of the rivers in this region have been dammed, and their reservoirs provide a significant amount of the water used in other sections of the State, with agriculture using up to 80 percent of the State's water. The area provides important habitat for both aquatic and terrestrial wildlife, its rivers support significant commercial and recreational fisheries, and various agricultural activities—primarily grazing and dairy operations occur throughout the region. Private timber harvest operations dominate many of the areas.

The North Coast Region is divided into two natural drainage basins: the Klamath River Basin and the North Coast Basin, encompassing a total area of approximately 19,390 square miles. The region covers all of Del Norte, Humboldt, Trinity and Mendocino counties; major portions of Siskiyou and Sonoma counties; and small portions of Glen, Lake and Marin counties.

Precipitation in the Pacific Northwest is generally high, varying annually in the Klamath Mountains from 40 to more than 80 inches annually, and occurring mainly during the winter season. Parts of the Klamath River Basin receive between 60 to 125 inches of rain per year. Precipitation, in general, is greater in this region than for any other part of California, and damaging floods are always a potential hazard. However, ample precipitation, in combination with the mild climate found over most of the North Coast Region, has provided a wealth of fish, wildlife and scenic

resources. In addition to supplying habitat for numerous terrestrial species, the numerous streams and rivers support anadromous, coldwater and warm-water fisheries.

Tidelands and marshes also are extremely important to many species of waterfowl and shore birds, both for feeding and nesting. Cultivated lands and pasture lands provide supplemental food for many birds, including small pheasant populations. Tideland areas along the north coast provide important habitat for marine invertebrates and nursery areas for forage fish, game fish and crustaceans.

There are 14 major surface water hydrologic units in the North Coast Region. While the region constitutes only about 12 percent of the total area of California, it produces almost 40 percent of the annual runoff for the state. This runoff contributes to flow in surface water streams, storage in lakes and reservoirs and replenishes groundwater.

Approximately two percent of California's population resides in the North Coast Region. The largest urban centers are the greater Eureka area of Humboldt County and the greater Santa Rosa area in Sonoma County including the Highway 101 corridor. The major industries in the region are logging and timber milling/production activities, vineyards and wineries, commercial and recreational fishing and tourism.

NPS Water Quality Problems

Sediment, siltation and elevated temperatures are the dominant water quality problems found in north coast streams, followed by the presence of excessive nutrients, organic enrichment and low dissolved oxygen levels. Other water quality problems include the presence of pathogens and mercury and high pH levels.

For sediment and siltation water quality problems, the identified potential sources include silviculture, logging road construction and maintenance, removal of riparian vegetation, land development, streambank modification and destabilization, the draining and filling of wetlands, hydromodification, private and county road construction and maintenance, sand and gravel extraction, and urban runoff.

Elevated water temperatures are associated with removal of riparian vegetation, the draining and filling of wetlands, agricultural water diversions, hydromodification, and sand and gravel extraction. Nutrient and organic enrichment/dissolved oxygen problems are associated with range and pasture grazing, intensive animal feeding operations, manure lagoon operation and maintenance, surface and sub-surface agricultural return flows and the draining and filling of wetlands.

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San Francisco Region (Region 2)

Section 13200(b) of the Porter-Cologne Act defines the San Francisco Bay Region as that which comprises San Francisco Bay, Suisun Bay, from the Sacramento and San Joaquin Rivers westerly from a line which passes between Collinsville and Montezuma Island and follows then the boundary common to Sacramento and Solano counties and that common to Sacramento and Contra Costa counties to the westerly boundaries of the watershed of Markely Canyon in Contra Costa county, all basins draining into the bays and rivers westerly from this line, and all basins draining into the Pacific Ocean between the southerly boundary of the north coastal region and the southerly boundary of the watershed of Pescadero Creek in San Mateo and Santa Cruz counties.

The San Francisco Bay/Estuarine system conveys the waters of the Sacramento and San Joaquin Rivers into the Pacific Ocean, contributing most of the freshwater inflow to the Bay. Many small rivers and streams supplement this freshwater flow. The rate and timing of these freshwater flows are among the most important factors influencing physical, chemical and biological conditions in the estuary. Most of the freshwater flow from the Sacramento/San Joaquin system, however, is trapped upstream by dams, canals and reservoirs of State, federal and local water diversion projects. The San Francisco Bay system functions as the only drainage outlet for waters of the Central Valley. It also marks the natural topographic separation between the northern and southern coastal mountain ranges. The region's waterways, wetlands, and bays form the nucleus of the fourth largest metropolitan region in the United States. The region includes all or major portions of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties.

The San Francisco Bay system presents highly dynamic and complex environmental conditions that support an extraordinarily diverse and productive ecosystem. Within sections of the Bay lie deepwater channels adjacent to large expanses of very shallow water. Salinity levels range from hypersaline to fresh water, with water temperatures varying considerably throughout the Bay system. These factors greatly increase the number of species that can live in the estuary and enhance its biological stability.

Deepwater channels in the San Francisco Bay system, marshlands, freshwater streams, and rivers provide a wide variety of habitats, which have become increasingly vital to the survival of several plant and animal species as other estuaries are reduced in size or lost to development. These areas sustain rich communities of crabs, clams, fish, birds and other aquatic life and serve both as important wintering sites for migrating waterfowl and as spawning areas for anadromous fish.

Most of the region enjoys a milder climate than inland areas of the state. The coastal area receives moderate amounts of precipitation.

Major population centers include San Francisco, Oakland, and the areas of San Jose, Santa Clara and Monterey along with their associated outlying communities.

NPS Water Quality Problems

Impaired water quality related to pesticides from nonpoint sources such as agricultural drainage and residential landscape pesticide use is a major problem throughout San Francisco Bay, adjacent bays and tributary rivers and creeks. Atmospheric deposition also is a major source of some of these compounds, including dioxin and furan compounds that are among the most toxic in existence, are environmentally persistent, bioaccumulate, and are thought to be human carcinogens. In addition, the presence of polychlorintaed biphenyls (PCBs) from unknown NPS sources has lead to innumerable health advisory warnings regarding fish consumption.

Mercury pollution continues to be a significant legacy problem, with drainage from historic mining operations and from current operations. In addition, sediment and siltation have severely degraded some bay and ocean tributary streams, which otherwise would provide habitat for steelhead. Pollution from sediment and siltation is present throughout the region as a result agricultural, construction and land development activities.

Tomales Bay and its tributaries are polluted by pathogens and nutrients from agricultural operations, primarily grazing, dairies and other confined animal facilities. Some ocean and bay beaches are polluted with high coliform counts, and stream flow regulation and modification have led to low dissolved oxygen levels, and high levels of salinity, total dissolved solids (TDS), and chlorides in some water bodies.

Central Coast Region (Region 3)

The Central Coast Region is described in the Porter-Cologne Act section 13200(c) as comprising all basins, including the Carrizo Plain in San Luis Obispo and Kern Counties, draining into the Pacific Ocean from the southerly boundary of the watershed of Pescadero Creek in San Mateo and Santa Cruz Counties to the southeasterly boundary, located in the westerly part of Ventura county, of the watershed of Rincon Creek.

The region is dominated by a rugged seacoast and three parallel ranges of the Southern Coast Mountains. Ridges and peaks of these mountains, the Diablo, Gabilan and Santa Lucia Ranges, reach to 5,800 feet. Between these ranges lie the broad valleys of the San Benito and Salinas Rivers. These Southern Coast Ranges abut the west to east trending Santa Ynez Mountains of the Transverse Ranges that parallel the southern exposed terraces of the Santa Barbara Coast.

The trend of the mountain ranges, relative to onshore air mass movements, imparts a marked climatic contrast between seacoast, exposed summits, and interior basins. Variation in terrain, climate, and vegetation account for a multitude of different landscapes. Sea cliffs, sea stacks, white beaches, cypress groves and redwood forests along the coastal strand contrast with dry interior landscapes of small sagebrush, short grass, and low chaparral.

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The region has three times the volume of average annual precipitation as the Los Angeles Region. Nevertheless, for the most part the climate is considered arid. Traditionally, the region has had agriculture and related food processing as major industries, but oil production, tourism and manufacturing contribute significantly to the economy. The region is home to the Salinas Valley, which is one of a very few places in the world that grow artichokes commercially. Other commercially grown and exported crops include lettuce, strawberries, garlic, onions, kiwi, avocados and wine grapes.

NPS Water Quality Problems

Nutrients, sediments, pesticides and pathogens, including high fecal and total coliform levels, are the primary causes for CWA section 303(d) listings in this region. High pathogen levels primarily are attributed to grazing operations and failing septic systems. Listings include the majority of central coast beaches as well as rivers and streams, marshes and sloughs, and lagoons and bays. Agricultural runoff, both from irrigated agriculture and agricultural storm water runoff, is responsible for high pesticide and nutrient levels. Sediments and siltation from a variety of sources also contribute to severely degraded water quality. Primary sources include land development and construction, road construction, silviculture and agricultural operations. Secondary sources include grazing, hydromodification and stream channelization and alteration.

Los Angeles Region (Region 4)

The Los Angeles Region is described in Porter-Cologne Act section 13200(d) as comprising all basins draining into the Pacific Ocean between the southeasterly boundary, located in the westerly part of Ventura County, of the watershed of Rincon Creek and a line which coincides with the southeasterly boundary of Los Angeles County from the ocean to San Antonio Peak and follows thence the divide between the San Gabriel River and Lytle Creek drainages to the divide between Sheep Creek and the San Gabriel River drainages.

Most of the region lies within the western portion of the Transverse Ranges. The San Andreas transform fault system cuts through the ranges extending northwesterly for over 700 miles from the Salton Sea in southern California to Cape Mendocino in northern California. The Transverse Ranges have a conspicuous east-west trend unlike other major ranges in the continental United States. Major mountain ranges in the region include: the San Gabriel Mountains, Santa Susana Mountains, Simi Hills, and Santa Ynez Mountains, with the San Gabriel Mountains being the most prominent range.

Rain storms formed as a result of moist air from the west and northwest raised by the mountain ranges are common from November through March, followed by dry summers. Extreme variations in temperature, humidity, precipitation and cloud cover result from the topographic variability of the region. The coastal plains and islands, with their mild rainy winters and warm dry summers, are noted for their "Mediterranean" type of climate. The inland slopes and basins are characterized by more extreme temperatures and little precipitation. Average annual rainfall in the region is approximately 15 inches.

The geologic and climatic diversity is the basis for diverse plant and animal communities. Chaparral is the most common form of native vegetation, while oak woodland is dominant in some areas. Riparian vegetation associated with rivers and creeks in the region provides essential habitat and transportation corridors for wildlife, and support an abundance and diversity of species.

Insufficient water supplies to meet both urban and agricultural demands have required the region to rely on imported supplies for over fifty percent of the demand for many years. Major watersheds of the region include those of the Ventura, Santa Clara, Los Angeles and San Gabriel Rivers, and Calleguas, Malibu, and Ballona Creeks. Coastal waters in the region include bays, estuaries, harbors, beach offshore areas, and open ocean.

Water is imported into the region through the Los Angeles Aqueducts, the California Aqueduct and the Colorado River Aqueduct. This water presents varying water-quality problems including turbidity, hardness and organic pollutants. Treatment of this water leads to other water quality concerns such as trihalomethanes. There is also extensive use in the region of reclaimed water.

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NPS Water Quality Problems

Most of the region's bays, harbors, and shoreline have elevated levels of PCBs, the pesticide - DDT, chlordane and polyaromatic hydrocarbons (PAHs) that have resulted in the closure of over thirty beaches and resulted in over 75 coastal fish consumption advisories. High levels of bacteria and viruses pollute rivers, creeks and lakes throughout the region. Other water bodies have been polluted by high nutrient levels. As a consequence, extensive algal growth occurs in some water bodies and others are in various stages of eutrophication. Heavy metals, pesticides and other organic and inorganic chemicals from nonpoint sources have been identified as the principal pollutants affecting rivers, harbors, estuaries, lagoons and creeks. Almost all of the recognized wetlands of the region have elevated levels of lead, zinc, chromium and copper as well as PAHs, DDT, chlordane, dieldrin, and PCBs. Many water bodies have been identified as having between 10 to 15 water body/pollutant combinations. The Los Angeles RWQCB only lists the sources as NPS pollution, it does not list the particular activity generating the pollution.

Central Valley Region (Region 5)

Section 13200(g) of the Porter-Cologne Act describes the Central Valley Region as comprising all basins, including the Goose Lake Basin, draining into the Sacramento and San Joaquin Rivers to the easterly boundary of the San Francisco Bay Region near Collinsville. The Central Valley RWQCB has two offices in the Sacramento Valley, one in Sacramento and one in Redding, and one office in the San Joaquin Valley in Fresno.

The basins are bounded by the crests of the Sierra Nevada Mountains on the east and by the Coast Range and the Klamath Mountains on the west. They extend about 400 miles from the California-Oregon border southward to the headwaters of the San Joaquin River. A third basin, the Tulare Lake Basin, also comprises part of the region. Located at the lower end of the San Joaquin Valley, this basin receives the drainage of the San Joaquin Valley south of the San Joaquin River, including that from the Kaweah and Kings Rivers. Although larger in area than the San Joaquin Basin (16,400 square miles), the Tulare Lake Basin has no outlet to the ocean and about one-third of the State's irrigated land.

The Sacramento and San Joaquin River Basins cover about one fourth of the total area of the State and about 45 percent of the State's irrigated land. They furnish about 51 percent of the State's water supply. Surface waters from the two drainage basins meet and form the Sacramento-San Joaquin Delta, which ultimately drains into San Francisco Bay. Principal streams of the Sacramento River Basin include the Sacramento River and its larger tributaries, the Pit, Feather, Yuba, Bear and American Rivers to the east, and Cottonwood, Stony, Cache and Putah Creeks to the west. Major reservoirs and artificial lakes include: Shasta, Oroville, Folsom, Clear Lake and Lake Berryessa.

The San Joaquin River Basin covers 15,880 square miles and includes the entire area drained by the San Joaquin River. The principal streams in this basin are the San Joaquin River and it larger tributaries: the Cosumnes, Mokelumne, Calaveras, Stanislaus, Tuolumne, Merced, Chowchilla and Fresno Rivers. Major reservoirs and lakes include Pardee, New Hogan, Millerton, McClure, Don Pedro and New Melones.

The Sacramento and San Joaquin Valleys are noted for their agricultural productivity, which generates most of the income in the region. The irrigation needs of agriculture are met by a combination of waters from the valleys' rivers, water imported from the Trinity River in northern California, and from groundwater sources.

NPS Water Quality Problems

Water quality issues principally relate to NPS pollution resulting from land management practices related to livestock grazing, irrigated and non-irrigated agriculture, road and building construction, and timber harvest. Runoff from urbanized areas and abandoned mines and activities associated with active mining operations and hydromodification (e.g., dams, water diversions and stream channel disturbances) contribute to NPS problems. Principal pollutants include pesticides such as diazinon, chlorpyrifos, malathion and parathion and other carcinogenic agents, some of which result from agricultural aerial deposition. The Central Valley contains over 5,700 miles of agriculturally dominated water bodies (ADWs). An ADW is a water body receiving greater than 50 percent of its flow from agricultural discharges, during a significant portion of the irrigation season.

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Other pollutants include mercury, copper and zinc from abandoned and active mining operations, pathogens and high ammonia, TDS and biological oxygen demand (BOD) levels from dairies and other confined animal operations.

Lahontan Region (Region 6)

The Lahontan Region is described in section 13200(h) of the Porter-Cologne Act as comprising all basins east of the Santa Ana, Los Angeles and Central Valley Regions from the California-Oregon boundary to the southerly boundary located in Los Angeles and San Bernardino Counties of the watersheds draining into Antelope Valley, Mojave River Basin and Dry Lake Basin near Ivanpah.

The region historically has been divided into North and South Lahontan Basins at the boundary between the Mono Lake and East Walker River watersheds. It is about 570 miles long and covers a total area of 33,131 square miles.

This region includes the highest (Mount Whitney –14,384 feet) and lowest (Death Valley – 282 feet below sea level) points in the contiguous United States. Like much of the rest of California, the region has a highly diverse landscape. The region includes the eastern slopes of the Warner, Sierra Nevada, San Bernardino, Tehachapi, and San Gabriel Mountains, and all or part of other ranges including the White, Providence, and Granite Mountains. Valleys in the region include the Madeline Plains and Surprise, Honey Lake, Bridgeport, Owens, Antelope and Victor Valleys. The Mojave Desert is primarily a plain, dotted with numerous hills and small mountainous elevations.

Climate within the region varies dramatically. The rain shadow areas of the eastern slopes of the Sierra Nevada Mountains receive very little rainfall, while the peaks register up to an average of 70 inches of precipitation from the west, most in snowfall. The desert areas receive less than 2 inches annually. Temperature extremes recorded in the region vary between 45° F at Boca in Truckee to as high as 134° F in Death Valley.

The varied topography, soils, and microclimates of the region support a corresponding variety of plant and animal life leading to what can be considered "ecological islands". These specialized ecological niches support several specially evolved/adapted plant and animal species that are unique to each of the "ecological islands". During the Gold Rush period in California's history, several sites in the foothills were extensively mined. In addition, mining for silver and other minerals has been going on since the 1860s, particularly at higher elevations. The abandonment of mines, after the deposits are exhausted, has left this area with major water contamination problems connected with these sites.

Recreational and scenic attractions of the region include Eagle Lake, Lake Tahoe, Mono Lake, the Mammoth Lakes, Death Valley and many wilderness and scenic river systems. Tourism and resource extraction form the backbone of the economy in the region. Agriculture and defense-related activities provide lesser contributions.

There are over 700 lakes and 3,170 miles of streams in the region. Water quality in most of the higher elevation water bodies is very good to excellent. Desert waters generally are of poor quality because of high concentrations of salt and minerals such as arsenic and selenium. These problems are further compounded by NPS geothermal, agricultural, and storm water discharges. A large volume of the water from the region is allocated by court decisions, federal law, and interstate agreements to other parts of the State, as well as to Nevada.

<u>NPS Water Quality Problems</u>

Sediment/siltation water quality problems exist throughout the region, including the Lake Tahoe watershed, as a result of grazing, silviculture, land development, construction activities, hydromodification, streambank modification and destabilization, and recreational facility development and activities. Grazing also is responsible for high nutrient and pathogen levels, the removal of streamside vegetation and high coliform levels. Recreational activities, including marina operations and boating activities, and failing septic systems have contributed to pollution from pathogens and nutrients.

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Colorado River Basin Region (Region 7)

The Colorado River Basin Region is described in Porter-Cologne Act section 13200(i) as comprising all basins east of the Santa Ana and San Diego Regions draining into the Colorado River, Salton Sea, and local sinks from the southerly boundary of the Lahontan Region to the California-Mexico boundary.

The region covers 20,000 square miles in the southeastern portion of California and includes Imperial County and portions of San Bernardino, Riverside and San Diego Counties. On the northeastern side it is bounded by the state of Nevada, on the north by the New York, Providence, Granite, Old Dad, Bristol, Rodman and Old Mountain Ranges, on the west by the San Bernardino, San Jacinto and Laguna Mountain Ranges, and on the south by the Republic of Mexico.

The Salton Sea is a significant feature of the region. Located on the site of a pre-historic lake, it is the largest inland body of water in California. It is a drainage reservoir for irrigation return flows and storm water from Coachella Valley, Imperial Valley, and Borrego Valley, as well as drainage from Mexicali in Mexico.

The San Andreas Fault Zone cuts diagonally across the southwesterly portion of the region and borders the highlands on the northeast side of the Salton Trough. Borrego Valley is a typical valley formed by the San Jacinto Fault. The Coachella and Imperial Valleys were created when the Colorado River formed a delta that isolated the Salton Trough from the Gulf of California. Lakes that formed as a result, dried out and left the flat and fertile lands that form the present day valleys.

The Colorado River supplies water for use in the region. Drainage to the river is from a 200-mile long strip of watershed, which ranges from 7 to 40 miles in width and is referred to as the East Colorado River Basin. The Metropolitan Water District based in Los Angeles diverts Colorado River water near Parker Dam through the Colorado River Aqueduct for export to coastal counties. Parker Dam forms Lake Havasu. At the Palo Verde Diversion Dam, water is diverted for irrigation to Palo Verde Valley and at Imperial Dam, water is diverted to the All-American Canal, which conveys water in California to Bard Valley and to the agricultural areas of Imperial and Coachella Valleys. Agriculture is the mainstay of the region.

Drainage waters resulting from Colorado River diversions and use, which do not return to the Colorado River, drain into the Salton Sea. The portion that does not drain into the Colorado River forms the West Basin. Lake Cahuilla in Coachella Valley also is used to store Colorado River water for irrigation and recreational purposes.

The region has the driest climate in California with mild winters and hot summers. Temperatures range from below freezing to 120° F. Higher elevations in the region get snow and the mean seasonal precipitation in the upper San Jacinto and San Bernardino Mountains ranges from 30 to 40 inches. Lower elevations receive very little rainfall—an average of about four inches along the Colorado River. Precipitation over the entire area occurs primarily from November through April, and August through September.

Many areas in the region are inhabited by animals tolerant to arid conditions, including small rodents, coyotes, foxes, birds and a variety of reptiles. Along the river banks and in the mountains where water is more abundant, deer, bighorn sheep and a diversity of small animals exist. Practically all species of fish found in the region were introduced. The Salton Sea provides a sport fishery as it is the site of a National Wildlife Refuge for waterfowl. The region also provides habitat for certain endangered/threatened species of wildlife including the desert pupfish, razorback sucker, Yuma Clapper rain, black rail, least Bell's Vireo, yellow-billed cuckoo, desert tortoise, and peninsular bighorn sheep.

<u>NPS Water Quality Problems</u>

Sediment and the contaminants carried by sediments, including selenium, pesticides and bacteria, are the constituents of most concern in this region. Most of the pollution is associated with agricultural return flows.

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Santa Ana Region (Region 8)

The Santa Ana Region is described in Porter-Cologne Act section 13200(e) as comprising all basins draining into the Pacific Ocean between the southerly boundary of the Los Angeles Region and a line which follows the drainage divide between Muddy and Moro Canyons from the ocean to the summit of the San Joaquin Hills; thence along the divide between lands draining into Newport Bay and into Laguna Canyon to Niguel Road; thence along Niguel Road and Los Aliso Avenue to the divide between Newport Bay and Aliso Creek drainages; thence along the divide and the southeasterly boundary of the Santa Ana River drainage to the divide between the Baldwin Lake and Mojave Desert drainages; thence along that divide to the divide between the Pacific Ocean and Mojave Desert drainages.

The east-west alignment of the crest of the San Gabriel and San Bernardino Mountains separates the Santa Ana River Basin from the Mojave Desert. In the south, the regional boundary divides the Santa Margarita River drainage area from that of the San Jacinto River, which normally terminates in Lake Elsinore. The Santa Ana River cuts through the Santa Ana Mountains near Corona and flows down onto the Orange County coastal plain. The region's boundary along the Pacific Ocean extends from just north of Laguna Beach to Seal Beach and the Los Angeles County line. Newport Bay, Anaheim Bay-Huntington Harbor, and coastal wetlands associated with the bays are significant features of the region.

The region is geologically active because the San Andreas Fault and its large branches, the San Jacinto, Elsinore-Whittier, and the Newport-Inglewood Faults all lie within its boundaries. The San Jacinto Fault near San Bernardino affects groundwater flows associated with the Santa Ana and San Jacinto Rivers. The Elsinore-Whittier Fault passes under the Prado Dam as it trends from the northwest toward the south east. In addition to these major faults, there are many branching, connecting and parallel faults in the region.

The region was once home to extensive agricultural activities, including citrus orchards and dairies. While most of the citrus industry has disappeared in the face of growing population pressure, a significant number of dairies still exist in the region. Both of these agricultural activities are believed to have contributed to heavy nitrate and other salt contamination of the region's groundwaters.

The region is the smallest of the nine regions of the state (2,800 square miles) yet one of the most densely populated areas in the state with over four million residents. The climate of the region is classified as Mediterranean; it is generally dry in summers with mild, wet winters. The average annual rainfall is about fifteen inches, most of it occurring between November and March. Most of the region would be near-desert, but for the influence of modern civilization.

The two major rivers in the region, the Santa Ana and the San Jacinto, are insufficient to meet the water demands of the region's population. Water is imported and managed by four municipal water districts (MWDs): the San Bernardino Valley MWD, Chino Basin MWD, Western MWD, and Orange County MWD, through a Santa Ana River Watermaster. The four water agencies also formed the Santa Ana Watershed Project Authority (SAWPA), which is a forum for a discussion of water issues, as well as a joint powers agency that can build projects of common interest to two or more members.

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NPS Water Quality Problems

Pathogens and nutrients are the pollutants most often listed as impairing the waters in this region. In a very few instances, dairies and agriculture were listed as the sources. However, in most cases the source was listed (CWA section 303[d] list) as an unknown NPS. This was also the case for water bodies that were listed as polluted by coliform and enterococci bacteria, pesticides, sediment and siltation, TDS, and those affected by eutrophication.

San Diego Region (Region 9)

The San Diego Region is described in Porter-Cologne Act section 13200(f) as comprising all basins draining into the Pacific Ocean between the southern boundary of the Santa Ana Region and the California-Mexico boundary.

The region encompasses most of San Diego County, parts of southwestern Riverside County, and southwestern Orange County. It is situated within the Peninsular Range Physiographic Province of California. One of the most

prominent physical features of the region is the northwest trending Peninsula Range, which includes from north to south, the Santa Ana, Tibia, Palomar, Vulcan, Cuyamaca and Laguna Mountains. The region is divided into a coastal plains area, a central mountain-valley area, and an eastern mountain-valley area. The coastal plains area is deeply dissected by streams draining to the Pacific Ocean; its surface ranging from sea level to 1200 feet and extending from the coast inland in a band about 10 miles in width. The central mountain-valley area is characterized by ridges and basins, which extend from the coastal plain northeastward to the Elsinore Fault zone. To the northeast of the Elsinore Fault zone is the eastern mountain-valley area. Surrounding mountains including Red Mountain, Cahuilla Mountain and Bachelor Mountain range from 4000 to 7500 feet.

The water resources in the region are classified as coastal waters, surface waters, ground waters, imported waters, and reclaimed waters. Coastal waters include bays, harbors, estuaries, beaches and open ocean. Deep draft commercial harbors include San Diego Bay and Oceanside Harbor and shallower harbors include Mission Bay and Dana Point Harbor. Tijuana Estuary, Sweetwater Marsh, San Diego River Floor Control Channel, Kendal-Frost Wildlife Reserve, San Dieguito River Estuary, San Elijo Lagoon, and Santa Margarita River Estuary are the important estuaries of the region.

There are thirteen principal stream systems in the region originating in the western highlands and flowing to the Pacific Ocean. From north to south these are Aliso Creek, San Juan Creek, San Mateo Creek, San Onofre Creek, Santa Margarita River, San Luis Ray River, San Marcos Creek, Escondido Creek, San Dieguito River, San Diego River, Sweetwater River, Otay River, and the Tijuana River. Most of these streams are interrupted in character, having both perennial and ephemeral components due to the rainfall pattern in the region. Surface water impoundments capture flow from almost all the major streams. Many of the surface water impoundments are a blend of runoff and imported water.

Imported surface water supplies almost 90 percent of the water used in the region, the remaining 10 percent is made up of the surface water sources discussed above. The Metropolitan Water District of Southern California supplies this imported water through its member agencies. The San Diego County Water Authority recently signed a historic agreement with the Imperial Irrigation District, which provides a secure supply of water for the next 45 to 75 years for the region's growing population. Use of reclaimed water also is on the rise in the region. This is obtained through extensive treatment of municipal wastewater to produce a reliable supply for non-potable purposes such as irrigation of parks, agriculture, greenbelts, golf courses and freeway landscaping.

NPS Water Quality Problems

For a majority of the region's water bodies, pathogen indicators are listed as a pollutant/stressor. Potential sources, however, are not specifically identified, but listed as NPS or unknown NPS. Other pollutants for which potential sources are not identified include TDS, phosphorus, nitrogen and nitrates. Other pollutants include cadmium, copper, lead, zinc, PAHs, PCBs, and mercury. At lease 5 water bodies or water body segments are listed as eutrophic and 15 ocean shoreline sites are listed for bacteria indicators.

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SECTION V. ANALYSIS OF ISSUES, ALTERNATIVES AND ENVIRONMENTAL IMPACTS

ISSUE A. THIRD-PARTY PROGRAMS' ROLE IN NPS POLLUTION CONTROL

(1) PRESENT STATE POLICY

Currently, there is no State policy that describes the role of third-party programs for NPS pollution control in the state's overall NPS pollution control program.

(2) ISSUE DESCRIPTION

In California NPS pollution has had a major impact on water quality throughout the state. Every two years, the SWRCB is required to submit a report on the State's water quality to the U. S. EPA pursuant to Section305(b) of the CWA. Included in the report is the CWA section 303(d) list—a list of waters, identified by the State, which do not meet applicable water quality standards after the application of certain technology-based controls. The listed water bodies and water-body segments are known as "impaired." Impaired waters are waters that either no longer support beneficial uses or the water quality standards necessary to support these beneficial uses.

The CWA section 303 (d) list, which must be updated every two years, was last updated in 2002. Following adoption by the SWRCB, the list was approved by U.S. EPA. The 2002 list revealed the growing scope and complexity of NPS problems in California. Both the number of impaired water bodies or water-body segments and the number of water body/pollutant combinations had increased. The State list now includes 685 impaired water bodies or water-body segments and 1883 pollutant/water body or segment combinations. Nonpoint sources of pollution dominate the list.

In 1999, the SWRCB adopted the NPS Program Plan to meet updated federal requirements and to continue to be eligible for federal funds for NPS control. The NPS Program Plan committed the State to prevent and control NPS pollution. The SWRCB proposed to meet this commitment through implementation of 61 MMs designed to "Ensure the protection and restoration of the State's water quality, existing and potential beneficial uses, critical coastal areas (CCAs) and pristine areas..." (NPS Program Plan, p2). The 61 MMs identified by the State fell within six NPS pollution categories: agriculture, forestry, urban areas, marinas and recreational boating activities, hydromodification, and wetlands/riparian areas/and vegetated treatment systems. The MMs are State determined goals that are to be achieved through discharger implementation of MMs and MPs. MPs are, for the most part, to be selected by the discharger.

The SWRCB sought to implement the NPS Program Plan through an extensive program of outreach, education and demonstration projects. Since the early 1990s, the SWRCB and RWQCBs have worked with NPS dischargers to provide information and guidance on NPS prevention and control measures. U. S. EPA provided funds for this effort under CWA section 319. Since most NPS discharges are the result of land use and land management practices, SWRCB and RWQCB efforts also involved development of extensive collaborative relationships with community, professional and discharger organizations and other local, State, and federal agencies with land and resource management authority, expertise, and programs. This broad effort sought to take advantage of the technical and financial assistance programs of other agencies and organizations, as well as to provide additional education to potential NPS dischargers.

Currently, there are a variety of third-party programs that focus on NPS pollution control. These include, for example, programs by watershed groups, resource conservation districts (RCDs), and other organizations. Under existing law, the RWQCBs can take advantage of the efforts of these entities to assist the RWQCBs in effectively addressing NPS pollution's impacts on water quality and, in particular, in achieving the goal of implementing the MMs identified in the State's NPS Program Plan.

The legislature has provided the SWRCB and RWQCBs the administrative tools (WDRs, waivers of WDRs and Basin Plan Prohibitions) required to regulate NPS discharges. However, as noted above, NPS discharges are varied and myriad. To effectively use the administrative tools to achieve statewide prevention and control of NPS pollution sources, the RWQCBs need to develop creative and innovative strategies through which they can

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reach and regulate tens of thousands of NPS dischargers, many of whom currently may be individually unknown to the RWQCBs. Much of this effort can be accomplished most efficiently and effectively by working through third parties with whom dischargers already have a regulatory or organizational relationship, or with whom they are potentially affiliated through common geographic boundaries or NPS generating activities.

Under existing law, there are various ways in which the RWQCBs can use third-party programs in their NPS pollution control programs. For example, the RWQCBs can conditionally waive regulation of a particular nonpoint pollution source based on the existence of an adequate third-party program that addresses this source. The RWQCBs can conditionally waive regulation of individual discharges or discharge categories if the waiver is consistent with any applicable water quality control plans and is in the public interest. The RWQCBs' current and past practice has been to waive regulation of certain types of NPS discharges where another entity is adequately regulating the discharges. For example, the RWQCBs typically waive regulation of discharges from on-site septic systems that are adequately regulated by local health agencies. The SWRCB and RWQCBs have also entered into memoranda of understanding and management agency agreements with other agencies that delineate the roles and responsibilities of these agencies in addressing NPS pollution. These agreements may also provide the foundation for a waiver.

Similarly, the RWQCBs can adopt individual or general WDRs for NPS discharges that build upon third-party programs. These WDRs can, for example, require that the dischargers either participate in an acceptable third-party NPS program or, alternatively, submit individual pollution prevention plans that detail how they will comply with the WDRs. Likewise, the RWQCBs can adopt discharge prohibitions, which include exceptions based on third-party programs. For example, a RWQCB can except from the discharge prohibition those discharges that are adequately addressed in an acceptable third-party NPS pollution control program.

The RWQCBs can also rely on appropriate third-party programs when they engage in water quality control planning for NPS pollution. Each statewide plan or regional basin plan must contain an enforceable implementation program to achieve the plan's water quality objectives. Implementation programs must include a description of the nature of the actions necessary to achieve the objectives, a time schedule for the actions to be taken, and the surveillance and monitoring activities that will be implemented to determine compliance with the water quality objectives [CWC §13050(j); § 13244]. In some cases, the RWQCBs may be able to craft implementation programs that are based on or that take advantage of existing third-party NPS programs.

Hence, the RWQCBs have various mechanisms to take advantage of existing third-party NPS programs in the boards' pollution control efforts.

(3) ALTERNATIVES

Alternative 1. No action. Under this alternative, the RWQCBs would continue to use third-party programs in NPS pollution control but there would be no State policy that expressly recognizes the role of these programs in water quality control.

Alternative 2. Establish State policy that expressly recognizes the role of third-party programs in NPS pollution control.

(4) STAFF RECOMMENDATION

Adopt Alternative 2.

ENVIRONMENTAL IMPACT ANALYSIS

There will be no significant adverse environmental impacts associated with establishing Sate policy that expressly recognizes the role of third-party programs in NPS pollution control. Existing law already provides for RWQCB use of third-party programs, in concert with use of the administrative tools (WDRs, waivers of WDRs, and basin plan prohibitions) the Legislature has provided the RWQCBs, to regulate nonpoint sources of pollution. Third-party programs that address NPS pollution are currently in-place. Hence, expressly

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recognizing the role of third-party programs in NPS pollution control will not change the existing physical environment.

Further, the ability to use effective third-party programs to facilitate the implementation of NPS control measures is critical to statewide prevention and control of NPS pollution discharges. Currently these discharges are causing significant adverse environmental effects throughout the State; degraded water quality and loss of designated beneficial uses are the result. California's diverse geography and myriad sources of NPS pollution generating activities make reliance on third-party programs a necessary feature of the SWRCB NPS pollution control strategy. The RWQCBs, with limited staff and resources, are being challenged to reach and regulate tens of thousands of NPS dischargers, a majority of whom may be individually unknown to the RWQCBs.

NPS discharge control relies on discharger implementation of self-determined MPs designed to prevent or control NPS pollution of the State's waters. Third-party programs are NPS control implementation programs that neither the SWRCB nor a RWQCB have developed, though board staff typically may be consulted at various stages of third-party program development. Third-party programs are programs developed by other responsible parties or agencies with which dischargers have an affiliation. Currently, there are a variety of third-party type programs dedicated to NPS pollution control efforts.

ISSUE B. CRITERIA FOR RWQCB APPROVAL OR ENDORSEMENT OF THIRD-PARTY PROGRAMS

(1) PRESENT STATE POLICY

Currently, there is no State policy that establishes minimum criteria that must be met in order for a RWQCB to approve or endorse a particular third-party NPS implementation program.

(2) ISSUE DESCRIPTION

As explained above, there are various existing third-party NPS programs and the RWQCBs have several existing legal tools under which they may be able to use these programs to address NPS pollution. These tools include WDRs, waivers of WDRs, prohibitions, and basin plan amendments. The statutory requirements that apply to these tools are briefly discussed below.

Under existing law, WDRs must "implement any relevant water quality control plans . . ., and . . . take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of [Water Code] Section13241." (CWC §13263) The requirements can also include a time schedule and can require monitoring reports. (*Id.* §§13263(c), 13267) The requirements can, in addition, prohibit the discharge of waste under certain conditions or in specified areas. (*Id.*§13243)

Waivers, likewise, must be consistent with any applicable water quality control plans and must be in the public interest. (*Id.* §13269). They are conditional, and the conditions must include the performance of individual, group, or watershed-based monitoring, unless the relevant discharges do not pose a significant water quality threat. (*Ibid.*)

Basin plans, under existing law, must include water quality objectives, beneficial use designations, and a program to implement the objectives. (*Id.* §13050(j)) The implementation program must describe the nature of actions that are necessary to achieve objectives, including recommendations for appropriate action by any entity, public or private. (*Id.* §13242) The program also has to contain a time schedule for the actions and a description of the surveillance that will be done to determine compliance with objectives. (*Ibid.*) Like waste discharge requirements, basin plans can include discharge prohibitions. (*Id.* §13243).

Hence, any WDRs, conditional waivers, prohibitions, or basin plan amendments that build upon or take advantage of an existing third-party NPS implementation program must meet the minimum statutory requirements applicable to that administrative tool. Aside from the general requirements applicable to each

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tool, however, there are no criteria that apply across-the-board to RWQCB approval or endorsement of third-party NPS implementation programs.

(3) ALTERNATIVES

Alternative 1: No action. Do not specify criteria for RWQCB approval or endorsement of third-party NPS implementation programs. This alternative will not foster statewide consistency among the RWQCBs. Nor will it assist the regulated community in figuring out what attributes of a third-party NPS implementation program will facilitate favorable RWQCB action on the program.

Alternative 2: Establish minimum criteria for third-party NPS implementation program. This alternative will promote statewide consistency among the RWQCBs.

(4) STAFF RECOMMENDATION

Adopt Alternative 2.

ENVIRONMENTAL IMPACT ANALYSIS

There would be no adverse environmental impacts associated with adoption of the proposed policy to establish criteria for RWQCB approval or endorsement of a third-party program. As described above under "Issue Description", under existing law the legislature has provided RWQCBs the legal tools to prevent or control NPS pollution and statutory requirements applicable to these tools. Among the statutory requirements are provisions governing RWQCB use of the legal tools, and requirements related to basin plan implementation programs and implementation actions taken to meet water quality objectives, including actions implemented through third-party programs. Adoption of a policy establishing minimum criteria that must be met for a RWQCB to endorse or approve a third-party NPS control implementation program will not result in adverse environmental impacts to the environment. To the contrary, it will promote statewide consistency in the implementation of the NPS Program Plan.

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ISSUE C. IDENTIFICATION OF CRITERIA FOR RWQCB ACTION ON THIRD-PARTY PROGRAMS

(1) PRESENT STATE POLICY

Currently, there are no established uniform criteria to guide RWQCB action on third-party NPS implementation programs.

(2) ISSUE DESCRIPTION

State law specifies certain minimum criteria and optional features for the administrative tools that RWQCBs may use to regulate NPS pollution. Generally speaking, all of the administrative tools share certain common characteristics. First, whatever tool the RWQCB selects, it must be consistent with water quality standards contained in any applicable water quality control plan. Second, monitoring is allowed or required, in some cases, whether the tool selected is WDRS, a conditional waiver, a prohibition, or a basin plan amendment. Third, a time schedule generally can be included, if appropriate, to implement actions necessary to comply with applicable water quality standards. Fourth, the RWQCBs typically require NPS dischargers to implement MPs to control pollution, in lieu of complying with numeric effluent limits, regardless of the administrative tool used by the RWQCBs. The RWQCBs are authorized to require dischargers to identify the MPs that they will use and to verify their implementation.

The following criteria for RWQCB approval or endorsement of a third-party NPS implementation program are consistent with the general characteristics described above:

Key Element 1: The objectives of an NPS control implementation program shall be explicitly stated and must, at a minimum, address NPS pollution in a manner designed to achieve State and regional water quality standards, including whatever higher level of water quality the RWQCB determines is appropriate in accordance with antidegradation principles.

Key Element 2: The NPS control implementation program shall include a discussion of the MPs that are expected to be implemented to ensure attainment of program objectives, and a discussion of the process to be used to verify proper MP implementation.

Key Element 3: Where a RWQCB determines it is necessary to allow time to achieve water quality standards, the NPS control implementation program shall include a specific time schedule and corresponding quantifiable milestones designed to measure progress toward reaching the program's objectives.

Key Element 4: The NPS control implementation program shall include sufficient feedback mechanisms so that the RWQCB, dischargers, and the public can determine if the program is achieving its stated objectives or if further MPs or other measures are needed.

Non-point source pollution is the primary water quality problem facing California today. NPS problems often are described as intractable because of the many individual sources involved and the intrinsic nature of its diffusion across the landscape. A statewide program must, of necessity, be designed to encompass not only the many sources of NPS pollution, but to accommodate the broad regional, geographic and climatic differences associated with the California landscape as well as the myriad activities involved. Against this background of multiple NPS sources and multiple landscape conditions and situations, successful NPS pollution control can be achieved only with individually focused implementation programs relevant to specific activities and specific water bodies and water quality standards. Key Element 1 recognizes this baseline imperative by requiring that individual "Implementation Program Objectives" be specific as to the NPS water quality problems they are designed to address as well as relevant to the water quality standards established by the appropriate RWQCB.

Further, in accepting or endorsing a specific NPS implementation program, in order to meet its statutory obligations, the RWQCBs must be able to track progress. There are several steps to this process. First, they must be able to evaluate the MPs proposed and have reasonable expectations that the MPs chosen will meet program objectives, as required by Key Element 2. In addition, a realistic implementation schedule must be established commensurate with the severity of the NPS problem and the difficulty in implementing solutions so that an independent determination can be made of progress toward achieving the goals of the implementation plan, (Key Element 3). Finally, feedback mechanisms must be established to show that discharger efforts are being successful or indicate that additional or alternative efforts are needed (Key Element 4). These verification requirements are analogous to those required of the SWRCB and RWQCBs, in whole or in part, by the CWC, the CWA, and the CZARA. All water quality control plans developed by the SWRCB or RWQCBs must include enforceable water quality standards and require schedules of compliance that include monitoring and reporting requirements.

Aggregating dischargers through appropriate third-party entities facilitates the statewide development of a network of actions or NPS management programs devoted to controlling NPS pollution. Most NPS management programs, whether developed by dischargers individually or collectively through group participation, typically depend upon individual discharger implementation of MPs. In agreeing to approve or endorse an NPS implementation program, the RWQCB needs to be assured that discharger actions are likely to meet RWQCB established water quality goals within a reasonable timeframe. Key Elements 1, 2, 3, and 4 of the NPS Implementation and Enforcement Policy seek to provide these assurances by establishing baseline criteria, which all NPS implementation programs must meet. As stated above, individual and third-party NPS implementation programs function as implementation components of the SWRCB adopted NPS Program Plan. The implementation policy criteria reflect the requirements that the Legislature, through the CWC, has determined the SWRCB and RWQCBs must meet in developing implementation program for the water quality control plans they develop.

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The NPS Implementation and Enforcement Policy also recognizes that implementation programs developed by third parties or individual dischargers may not meet all of the requirements necessary to satisfy the criteria established in the CWC and which have been restated as Key Elements 1 through 4. To the extent a program does not meet these requirements, the RWQCBs must supplement these programs to meet the CWC requirements. This can be accomplished most effectively through use of the administrative tools the Legislature has provided (WDRs and basin plan prohibition requirements, and waiver conditions).

(3) ALTERNATIVES FOR SWRCB ACTION

Alternative 1. No action. Rely on the minimum criteria and optional features for each administrative tool to guide RWQCB action on third-party NPS implementation programs. Do not specify criteria that would apply uniformly to all RWQCBs and all administrative tools selected by the RWQCBs that rely upon third-party NPS implementation programs.

Alternative 2. Adopt policy language which establishes criteria for RWQCB approval or endorsement of third-party NPS control implementation plans, including the requirements of Key Elements 1, 2, 3 and 4. The SWRCB/RWQCB would continue the current program of outreach, education, technical assistance, and demonstration projects to the extent funds would be available. However, their use would be integrated into a broader, structured program. This provides greater assurance that these activities would result in discharger implementation of improved MPs targeted toward specific water quality problems. In addition, the MPs implemented would be required to be implemented according to standards of installation, review and adaptive management that would more fully assure progress in improving water quality.

(4) STAFF RECOMMENDATION

Adopt Alternative 2.

ENVIRONMENTAL IMPACT ANALYSIS

There would be no adverse environmental impacts associated with establishment of uniform criteria to guide RWQCB action on third-party NPS implementation programs. The minimum criteria identified in key elements one through four of the NPS Control Implementation and Enforcement Policy are consistent with the general characteristics of the minimum criteria and optional features State law requires the RWQCBs to follow in using the administrative tools (WDRs, basin plan prohibitions and waivers) the Legislature has provided to regulate nonpoint sources of pollution. SWRCB adoption of policy identifying these minimum criteria would not result in adverse environmental impacts.

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ISSUE D. ADVANCE NOTICE OF POTENTIAL ENFORCEMENT ACTIONS SHOULD IMPLEMENTATION PROGRAMS FAIL TO ACHIEVE THEIR STATED GOALS

(1) PRESENT STATE POLICY

Currently, there is no State policy that requires that RWQCBs notify dischargers of the potential enforcement consequences of noncompliance with a third-party NPS implementation program's goals.

(2) ISSUE DESCRIPTION

The introduction to the SWRCB Enforcement Policy adopted in 2002 states:

" In the Porter-Cologne Water Quality Control Act (Porter-Cologne), the Legislature declared that the state must be prepared to exercise its full power and jurisdiction to protect the quality of the waters in the state from degradation....' (California Water Code section 13000). Porter-Cologne grants the Boards the authority to implement and enforce water quality laws, regulations, policies and plans to protect the groundwater and surface waters of the state."

The policy later states that "Enforcement not only protects the public health and the environment, but also creates an 'even playing field', ensuring that dischargers who comply with the law are not placed at a competitive disadvantage by those who do not."

Historically, although the Porter-Cologne Act provides the RWQCBs with authority to take both informal and formal enforcement actions to assure water quality protection, the RWQCBs have taken very few such actions against NPS dischargers. Instead, they have relied on outreach and education programs coupled with technical and financial assistance and collaboration with other organizations and agencies to encourage dischargers to implement MPs to prevent and control nonpoint sources of pollution. Lack of enforcement was also due to the NPS program's emphasis on giving dischargers the opportunity to correct NPS problems prior to more stringent RWQCB actions, and partly due to the absence of site-specific water quality information and discharger requirements upon which to base an enforcement action.

In requiring the SWRCB to develop guidance "for the purpose of describing the process by which the state board and the regional boards will enforce the state's nonpoint source management plan" (CWC 13369 (a)(2)(B)) the Legislature has indicated the need for greater use of the RWQCBs' enforcement authorities to successfully achieve NPS pollution control.

Continued deterioration of water quality, as evidenced by the monitoring programs of State, local and federal agencies, the expanding CWA section 303(d) list, continued loss of beneficial uses, and court orders requiring more stringent RWQCB water quality protection from nonpoint sources of pollution, have shown that outreach, education, and technical assistance efforts are not enough to solve the State's NPS water pollution problems. Development of NPS implementation programs incorporating Key Elements 1 through 4, described previously, will provide baseline requirements for discharger implementation actions. At the same time it will also provide specific requirements against which the need for an enforcement action can be measured and proceeded upon.

The RWQCBs as well as dischargers need to anticipate the possibility that implementation programs, as initially developed, may not live up to projected NPS pollution prevention and control expectations, and to anticipate the consequences thereof. Implementation programs may not fully or partially succeed for many reasons, from lack of a clear understanding of the cause of the problem, to selection of the wrong or inadequate MPs, to lack of discharger participation. Providing dischargers prior knowledge of the actions a RWQCB may take, including enforcement options, in response to lack of progress in controlling nonpoint sources of pollution under a particular implementation program creates greater incentive for developing an implementation program that has the most likelihood of success.

Individual dischargers need to be aware that, even if they are involved in third-party programs, they remain individually responsible for their discharges. They need to know ahead of time what actions or inactions on their part can potentially cause enforcement actions to be taken against them individually. In addition, as members of a third-party arrangement, they need a clear description of the potential enforcement consequences of not meeting RWQCB criteria for third-party group performance. Clarity and certainty about RWQCB options and potential enforcement consequences, should NPS control implementation plans not meet projected NPS control results, also fulfills the requirements of CWC 13369(a) (2) (A).

The following Element 5 would ensure that dischargers are on-notice of the potential enforcement consequence of failing to achieve a third-party NPS implementation program's goals:

Key Element 5: Each RWQCB shall make clear, in advance, the potential consequences for failing to achieve the NPS implementation program's stated goals.

(3) ALTERNATIVES FOR SWRCB ACTION

Alternative 1. No action. Do not specify the potential consequences of failing to achieve the NPS implementation program's goals. This option does not provide dischargers notice of the potential enforcement consequences of failing to attain a third-party NPS implementation program's goals.

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Alternative 2. Adopt policy language (Key Element 5) that provides dischargers notice of the potential enforcement consequences of failing to meet a third-party NPS implementation program's goals.

(4) STAFF RECOMMENDATION

Adopt Alternative 2.

ENVIRONMENTAL IMPACT ANALYSIS.

There are no adverse environmental impacts associated with the RWQCBs giving advance notice of the enforcement actions that may be taken to ensure NPS control water quality compliance. The Porter-Cologne Act requires the SWRCB and RWQCBs to be prepared to exercise the State's full power and jurisdiction to protect the quality of the waters in the State from degradation. To fulfill this mandate, the SWRCB and RWQCBs have been granted the authority to implement and enforce water quality laws, regulations, policies and plans to protect the State's groundwaters and surface waters. The SWRCB Enforcement Policy provides a description of the various informal and formal enforcement actions a RWQCB may take. To provide advance notice of the particular enforcement actions a RWQCB may take in response to a situation where a third-party NPS control implementation program does not meet expected progress in controlling NPS creates greater incentive to develop an implementation program that has the most likelihood of success. No changes to the environment nor environmental impacts are associated with such actions.

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SECTION VI. ENVIRONMENTAL CHECKLIST

A. Background

1. Name of Proponent: State Water Resources Control Board

2. Address and Phone Number of Proponent: Division of Water Quality
P.O. Box 100, Sacramento, CA 95812-0100
(916) 341-5560

3. Date Checklist Submitted: December 2, 2003

4. Agency Requiring Checklist: Resources Agency

5. Name of Proposal, if applicable: Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Implementation and Enforcement Policy)

B. Environmental Impacts
(Explanations are included on attached sheets).

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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. LAND USE AND PLANNING.				
Would the proposal:				
a. Conflict with general plan designation or zoning?	[ ]	[ ]	[ ]	[X]
b. Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?	[ ]	[ ]	[ ]	[X]
c. Be incompatible with existing land use in the vicinity?	[ ]	[ ]	[ ]	[X]
d. Affect agriculture resources or operations (e.g. impacts to soils or farmlands or impacts from incompatible land uses)?	[ ]	[ ]	[ ]	[X]
e. Disrupt or divide the physical arrangement of an established community (including a low- income or minority community)?	[ ]	[ ]	[ ]	[X]
II. POPULATION AND HOUSING.				
Would the proposal:				
a. Cumulatively exceed official regional or local population projections?	[ ]	[ ]	[ ]	[X]
b. Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?	[ ]	[ ]	[ ]	[X]
c. Displace existing housing especially affordable housing?	[ ]	[ ]	[ ]	[X]

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
III. GEOLOGIC PROBLEMS				
Would the proposal result in or expose people to potential impacts involving:				
a. Fault rupture?	[ ]	[ ]	[ ]	[X]
b. Seismic ground shaking?	[ ]	[ ]	[ ]	[X]
c. Seismic ground failure, including liquefaction?	[ ]	[ ]	[ ]	[X]
d. Seiche, tsunami, or volcanic hazard?	[ ]	[ ]	[ ]	[X]
e. Landslides or mudflows?	[ ]	[ ]	[ ]	[X]
f. Erosion, changes in topography or unstable soil conditions from excavation, grading or fill?	[ ]	[ ]	[ ]	[X]
g. Subsidence of the land?	[ ]	[ ]	[ ]	[X]
h. Expansive soils?	[ ]	[ ]	[ ]	[X]
i. Unique geologic or physical features?	[ ]	[ ]	[ ]	[X]
IV. WATER				
Would the proposal result in:				
a. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	[ ]	[ ]	[ ]	[X]
b. Exposure of people or property to water related hazards such as flooding?	[ ]	[ ]	[ ]	[X]
c. Discharge into surface water or other alteration of surface water quality (e.g. temperature, dissolved oxygen or turbidity)?	[ ]	[ ]	[ ]	[X]
d. Changes in the amount of surface water in any water body?	[ ]	[ ]	[ ]	[X]
e. Changes in currents or the course or direction of surface water movements?	[ ]	[ ]	[ ]	[X]
f. Change in the quantity of groundwaters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?	[ ]	[ ]	[ ]	[X]
g. Altered direction or rate of flow of groundwater?	[ ]	[ ]	[ ]	[X]
h. Impacts to groundwater quality?	[ ]	[ ]	[ ]	[X]
i. Substantial reduction in the amount of groundwater otherwise available for public water supplies?	[ ]	[ ]	[ ]	[X]

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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
V. AIR QUALITY				
Would the proposal:				
a. Violate any air quality standard or contribute to an existing or projected air quality violation?	[ ]	[ ]	[ ]	[X]
b. Expose sensitive receptors to pollutants?	[ ]	[ ]	[ ]	[X]
c. Alter air movement, moisture, or temperature, or cause any change in climate?	[ ]	[ ]	[ ]	[X]
d. Create objectionable odors?	[ ]	[ ]	[ ]	[X]
VI. TRANSPORTATION/CIRCULATION				
Would the proposal result in:				
a. Increased vehicle trips or traffic congestion?	[ ]	[ ]	[ ]	[X]
b. Hazards to safety from design features (e.g. farm equipment)?	[ ]	[ ]	[ ]	[X]
c. Inadequate emergency access or access to nearby uses?	[ ]	[ ]	[ ]	[X]
d. Insufficient parking capacity on- site or off- site?	[ ]	[ ]	[ ]	[X]
e. Hazards or barriers for pedestrians or bicyclists?	[ ]	[ ]	[ ]	[X]
f. Rail, waterborne or air traffic impacts?	[ ]	[ ]	[ ]	[X]
g. Conflicts with adopted policies supporting transportation (e.g., bus turnouts, bicyclists racks)?	[ ]	[ ]	[ ]	[X]
VII. BIOLOGICAL RESOURCES				
Would the proposal result in impacts to:				
a. Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)?	[ ]	[ ]	[ ]	[X]
b. Locally designated species?	[ ]	[ ]	[ ]	[X]
c. Locally designated natural communities (e.g. oak forest, coastal habitat, etc.)?	[ ]	[ ]	[ ]	[X]
d. Wetland habitat (e.g. marsh, riparian and vernal pool)?	[ ]	[ ]	[ ]	[X]
e. Wildlife dispersal or migration corridors?	[ ]	[ ]	[ ]	[X]
VIII. ENERGY AND MINERAL RESOURCES				
Would the proposal:				
a. Conflict with adopted energy conservation plans?	[ ]	[ ]	[ ]	[X]

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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b. Use non- renewable resources in a wasteful and inefficient manner?	[ ]	[ ]	[ ]	[X]
c. Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?	[ ]	[ ]	[ ]	[X]
IX. HAZARDS				
Would the proposal involve:				
a. A risk of accidental explosion or release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation)?	[ ]	[ ]	[ ]	[X]
b. Possible interference with an emergency response plan or emergency evacuation plan?	[ ]	[ ]	[ ]	[X]
c. The creation of any health hazard or potential health hazard?	[ ]	[ ]	[ ]	[X]
d. Exposure of people to existing sources of potential health hazards?	[ ]	[ ]	[ ]	[X]
e. Increased fire hazard in areas with flammable brush, grass, or trees?	[ ]	[ ]	[ ]	[X]
X. NOISE				
Would the proposal result in:				
a. Increases in existing noise levels?	[ ]	[ ]	[ ]	[X]
b. Exposure of people to severe noise levels?	[ ]	[ ]	[ ]	[X]
XI. PUBLIC SERVICES				
Would the proposal have an effect upon or result in a need for new or altered government services in any of the following areas:				
a. Fire protection?	[ ]	[ ]	[ ]	[X]
b. Police protection?	[ ]	[ ]	[ ]	[X]
c. Schools?	[ ]	[ ]	[ ]	[X]
d. Maintenance of public facilities, including roads?	[ ]	[ ]	[ ]	[X]
e. Other governmental services?	[ ]	[ ]	[ ]	[X]
XII. UTILITIES AND SERVICE SYSTEMS				
Would the proposal result in a need for new systems or supplies or substantial alterations to the following utilities:				
a. Power or natural gas?	[ ]	[ ]	[ ]	[X]
b. Communications systems?	[ ]	[ ]	[ ]	[X]

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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c. Local or regional water treatment or distribution facilities?	[ ]	[ ]	[ ]	[X]
d. Sewer or septic tanks?	[ ]	[ ]	[ ]	[X]
e. Storm water drainage?	[ ]	[ ]	[ ]	[X]
f. Solid waste disposal?	[ ]	[ ]	[ ]	[X]
g. Local or regional water supplies?	[ ]	[ ]	[ ]	[X]
XIII. AESTHETICS				
Would the proposal:				
a. Affect a scenic vista or scenic highway?	[ ]	[ ]	[ ]	[X]
b. Have a demonstrable negative aesthetic effect?	[ ]	[ ]	[ ]	[X]
c. Create light or glare?	[ ]	[ ]	[ ]	[X]
XIV. CULTURAL RESOURCES				
Would the proposal:				
a. Disturb paleontological resources?	[ ]	[ ]	[ ]	[X]
b. Disturb archaeological resources?	[ ]	[ ]	[ ]	[X]
c. Affect historical resources?	[ ]	[ ]	[ ]	[X]
d. Have the potential to cause a physical change which would affect unique ethnic cultural values?	[ ]	[ ]	[ ]	[X]
e. Restrict existing religious or sacred uses within the potential impact area?	[ ]	[ ]	[ ]	[X]
XV. RECREATION				
Would the proposal:				
a. Increase the demand for neighborhood or regional parks or other recreational facilities?	[ ]	[ ]	[ ]	[X]
b. Affect existing recreational opportunities?	[ ]	[ ]	[ ]	[X]
XVI. MANDATORY FINDINGS OF SIGNIFICANCE				
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community. Reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	[ ]	[ ]	[ ]	[X]

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		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b.	Does the project have the potential to achieve short-term, to the disadvantage or long-term, environmental goals?	[ ]	[ ]	[ ]	[X]
c.	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects).	[ ]	[ ]	[ ]	[X]
d.	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	[ ]	[ ]	[ ]	[X]

C. Determination

Based on the evaluation in FED (Environmental Effects section), I find that the proposed NPS Implementation and Enforcement Policy will not have a significant adverse effect on the environment.

12/16/03

Date

Stan Martinson, Chief
Division of Water Quality
State Water Resources Control Board

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