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## North Coast Regional Water Quality Control Board

March 2, 2015

Mr. George D. Gentry  
Executive Officer  
Board of Forestry and Fire Protection  
P. O. Box 944246  
Sacramento, CA 94244-2460

Dear Mr. Gentry:

**Subject:** Comments on the Board of Forestry and Fire Protection proposed Working Forest Management Plan, dated January 16, 2015, Title 14 of the California Code of Regulations

**File:** Timber, Board of Forestry, General

Enclosed is a Memorandum dated, March 2, 2015, which provides Regional Water Board staff comments on the proposed Working Forest Management Plan, as published January 16, 2015. These comments were prepared by David Fowler, Regional Water Board staff.

We appreciate having had the opportunity to participate and to provide substantial input during the development process of this rule package to ensure actions authorized under this regulation comply with Regional Water Quality Control Board water quality requirements.

Overall we believe the proposed Working Forest Management Plan rules provide an opportunity for long term planning and management of timberlands and protection of resources. We are concerned, however, that the proposed rule language is reactive rather than proactive with respect to the requirement addressing erosion sites. Addressing only active and existing erosion sites while ignoring potential erosion sites is inconsistent with other existing sections of the Forest Practice Rules, the requirements of the Water Quality Control Plan (Basin Plan) for the North Coast, and the Porter-Cologne Water Quality Control Act.

We believe that by not addressing potential erosions sites, it is likely that the proposed WFMP regulations will not insure compliance with the North Coast water quality requirements, nor the Water Quality Control Plan for the North Coast Region. We recommend that rules be developed that are consistent with applicable water quality requirements and protection of the applicable beneficial uses of water. This approach would help our agencies and provide the people of the state with efficient government.

Again, thank you for the opportunity to review and comment. If you or your staff have any questions or concerns regarding our comments or would like additional information, please contact David Fowler (707-576-2756) or Jim Burke (707-576-2289) of our staff.

Sincerely,

Fred Blatt  
Division Chief  
Nonpoint Source & Surface Water Protection Division

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## North Coast Regional Water Quality Control Board

March 2, 2015

To: Fred Blatt  
Division Chief  
Nonpoint Source and Surface Water Protection Division

From: David Fowler  
Representing review staff

Subject: Review and Comments on the Board of Forestry and Fire Protection proposed Working Forest Management Plan, dated January 16, 2015, Title 14 of the California Code of Regulations

North Coast Regional Water Quality Control Board (Regional Water Board) staff worked cooperatively and collaboratively with members of the Board of Forestry and Fire Protection (BOF or Board), their staff, staff from the California Department of Forestry and Fire Protection, the California Department of Fish and Wildlife, the California Geological Survey, and members of the public during the development and review process of the proposed *Working Forest Management Plan* (WFMP) sections of the Forest Practice Rules (FPRs). The Public Review draft of the WFMP rules was published on January 16, 2015 for a 45 day comment period. Regional Water Board staff have reviewed the draft text.

Assembly Bill 904 created a new alternative for managing “working forest” timberlands up to 15,000 acres in size. The Bill states that “It is the policy of the state to encourage prudent and responsible forest resource management of nonindustrial timberlands by approving working forest management plans in advance and authorizing working forest timber harvest notices to be filed ministerially.” WFMPs are intended to build on the model provided by nonindustrial timber management plans.

The proposed WFMP rules contain many commendable goals and objectives. However, please consider the following comments and suggested revisions we believe are necessary to align the proposed language of a portion of section of 1094.6(i), part of the “Contents of WFMP” (page 17, lines 16 through 22) with other pertinent FPR rule sections, as well as Water Quality requirements. Aligning the FPR language and water quality requirements at this stage of rule development is far more efficient than addressing the matter in the Regional Board’s permitting process. The proposed subsection states:

“1094.6(i) A description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations. This shall include disclosure of active erosion sites from roads, skid trails, crossings, or any other structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state resulting in significant sediment discharge and violation of water quality requirements. The WFMP shall also include an erosion control implementation plan and a schedule to implement erosion controls that prioritizes significant existing erosion site(s). ...”

While Regional Water Board staff strongly support the intent of this section, including a description and discussion of methods to be used to avoid significant sediment discharge and an erosion control implementation plan in WFMPs, addressing only “active” and “existing” erosion sites is problematic. Besides being reactive rather than proactive, addressing only active and existing erosion sites is inconsistent with other existing sections of the Forest Practice Rules, sections of the recently enacted Road Rules, the requirements of the Water Quality Control Plan (Basin Plan) for the North Coast, and the Porter-Cologne Water Quality Control Act.

WFMPs must comply with all applicable requirements of the Forest Practice Rules. Section 916.4(a) [936.4(a), 956.4(a)] requires an RPF to conduct a field examination and evaluate areas near, and areas with the *potential* to directly impact, watercourses and lakes for sensitive conditions, identify those conditions, and describe measures to protect and restore to the extent feasible, the beneficial uses of water. Section 923.1(e) [943.1(e), 963.1(e)] of the new Road Rules requires road inventories. It requires an RPF to evaluate all logging roads and landings in the logging area, including appurtenant roads, for evidence of significant existing *and potential* erosion sites, and specify necessary and feasible treatments for those sites.

Additionally, WFMPs must comply with the requirements of the regional Basin Plans or the Porter-Cologne Water Quality Control Act. Both the Act and the Basin Plans recognize threatened or potential discharges as well as active or existing discharges.

It should be noted that proposed section 1094.6(i) covers two distinct and very different items. The first is a requirement to describe and discuss the methods to be used to *avoid* significant sediment discharge to watercourses. The second is a requirement for an erosion control management plan.

The first part of section 1094.6(i) twice uses the term “significant sediment discharge,” a term that is defined in the Forest Practice Rules definitions, section 895.1. The definition of “significant sediment discharges” includes the concept of potential as well as active discharges. Because of this, the use of the phrase “active erosion sites” in line 17 is confusing. Regional Water Board staff suggest deleting the word “active” from line 17 so that the sentence will read, “This shall include disclosure of ~~active~~ erosion sites...”.

The description of the contents of the erosion control implementation plan uses the undefined term “significant existing erosion site(s)” (line 22). Besides conflicting with

other existing regulations and statutes, since this term is undefined, it leads to ambiguity and the inevitable question of “What is *significant*?” This could be avoided by using the existing term defined in section 895.1, “significant existing or potential erosion site.”

We believe the BOF should avoid use of an undefined term for the contents of a sediment control implementation plan, especially when it adds ambiguity and makes this section internally inconsistent with the rest of the Forest Practice Rules.

In order to make the WFMP language internally consistent with other provisions of the Forest Practice Rules and to make it consistent with the requirements of the regional Basin Plans and the Porter-Cologne Water Quality Control Act, Regional Water Board staff suggest changing lines 20 through 22 to read: “The WFMP shall also include an erosion control implementation plan and a schedule to implement erosion controls that prioritizes significant existing **or potential** erosion site(s).”

Lastly, the last sentence of section 1094.6(i) is unclear (page 17, lines 22 through 24). It was copied directly from AB 904 and the wording is somewhat convoluted. It appears the intent of this section is to allow erosion control plans developed in compliance with the requirements of other agencies to fulfill the requirements of this section. A similar allowance exists for prescribed maintenance period inspections in section 923.7 [943.7, 963.7](k)(2). In order to avoid confusion and clearly state the intent of this sentence, Regional Water Board staff suggest using section 923.7(k)(2) as a template. Regional Water Board staff suggest replacing the last sentence of proposed section 1094.6(i) with, “Erosion control implementation plans developed pursuant to California Regional Water Quality Control Board requirements may be used to satisfy the erosion control implementation plan requirements of this section.”

In summary, Regional Water Board staff suggest proposed section 1094.6(i) (page 17, lines 16 through 24) should be revised to read:

1094.6(i) “A description and discussion of the methods to be used to avoid significant sediment discharge to watercourses from timber operations. This shall include disclosure of ~~active~~ erosion sites from roads, skid trails, crossings, or any other structures or sites that have the potential to discharge sediment attributable to timber operations into waters of the state resulting in significant sediment discharge and violation of water quality requirements. The WFMP shall also include an erosion control implementation plan and a schedule to implement erosion controls that prioritizes significant existing **or potential** erosion site(s). ~~This subdivision shall not apply to the extent that the RPF provides documentation to the Department that the WFMP is in compliance with of other applicable provisions of law~~ **Erosion control implementation plans developed pursuant to California Regional Water Quality Control Board requirements may be used to satisfy the erosion control implementation plan requirements of this section.**”