

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**DRAFT STAFF REPORT FOR REGULAR MEETING OF MAY 12, 2016**

Prepared on March 1, 2016

**ITEM NUMBER:**

**x**

**SUBJECT:**

**Conditional Waiver of Waste Discharge Requirements for Disaster Related Emergency Waste Handling and Disposal, Order No. R3-2016-0001 (Conditional Waiver)**

**STAFF CONTACT:**

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**THIS ACTION:**

**Adopt Order No. R3-2016-0001**

**SUMMARY**

Natural or manmade disasters can generate significant amounts of waste requiring emergency cleanup operations to resume essential public services and to protect public health. The cleanup, management and disposal of emergency/disaster related waste without appropriate controls can result in the discharge of multiple waste streams, which can adversely affect the quality of surface water and/or groundwater. In general, persons who discharge waste that could affect the waters of the state must submit a Report of Waste Discharge (ROWD) and obtain waste discharge requirements (WDRs). However, the issuance of new waste discharge requirements would significantly impede the cleanup of emergency/disaster related wastes, which would likely increase the threat to public health and the environment.

Staff is presenting Order No. R3-2016-0001, *Conditional Waiver of Waste Discharge Requirements for Disaster Related Emergency Waste Handling and Disposal* (Conditional Waiver), to expedite the cleanup of emergency/disaster related wastes, while minimizing potential impacts and threats to water quality from waste handling and disposal following an emergency or disaster.

**DISCUSSION**

**Background**

Fires, storms, floods, landslides, earthquakes, mass mortality of animals, spills, and other emergencies can create large amounts of waste that must be removed for disposal or recycling in order to restore property and public services facilities, repair and reopen highways, protect public health and the environment, or otherwise prevent or mitigate an emergency. These cleanup activities often necessitate temporary waste staging areas at regulated waste management facilities or various other locations, may involve wastes that wouldn't normally be accepted at a particular regulated waste management facility, and can create unusually large amounts of waste for landfills to handle in a short amount of time. Disaster related emergencies often require the timely implementation of corrective and cleanup actions that precludes the

preparation of an ROWD and the Central Coast Water Board from processing them to develop and adopt new WDRs or conditional waivers, or to revise existing WDRs or waivers. Consequently, section 13269 of the California Water Code waives the requirements to submit an ROWD and to obtain WDRs for emergency activities. However, it does not limit a Regional Water Board from establishing conditions on waived requirements as may be necessary to protect water quality.

The proposed Conditional Waiver is consistent with similar orders or resolutions recently adopted by four other Regional Water Quality Control Boards. The Central Valley Region (Region 5) and the San Diego Region (Region 9) adopted conditional waivers for emergency/disaster related wastes. While the Lahontan Region (Region 6) and Santa Ana Region (Region 8) adopted conditional waivers for management and disposal of solid wastes from wildfires. In general, these other conditional waivers all require notification to the applicable Water Board following discharge of waste during a State of Emergency, proper final disposal of emergency waste at an appropriate regulated facility, siting conditions and discharger management measures or best management practices for temporary waste staging areas to prevent impacts to surface waters and/or groundwater, and restoration of original site conditions upon closure of temporary waste staging areas. Restoration of original site conditions is also referred to as clean closure.

### **Proposed Conditional Waiver**

Order No. R3-2016-0001 would, if adopted, continue to waive the requirement to file an ROWD while prescribing conditions as necessary to protect life or property during emergency cleanup actions following fires, storms, floods, landslides, earthquakes, mass mortality of animals, or other emergency in a disaster area in which a "State of Emergency" has been proclaimed by the Governor (Declared Disaster Areas). In the event of an emergency not within a Declared Disaster Area, waste discharges may be eligible for coverage under the Conditional Waiver if the emergency is declared by a state or local government agency and an Incident Commander working through the Statewide Incident Management System and the California Emergency Management Agency directs that waste be discharged to mitigate an emergency, or the discharger prior to discharging, submits a Notice of Intent (NOI) to the Central Coast Water Board and obtains a Notice of Enrollment from the Executive Officer stating that the proposed discharge is eligible for coverage under the Conditional Waiver and is necessary to mitigate an emergency.

To mitigate potential water quality threats due to emergency/disaster related waste handling and disposal activities, the Conditional Waiver includes conditions for the following categories of emergency/disaster related waste discharges in the Central Coast Region:

1. **Discharges to Existing Waste Management Units at Regulated Facilities**
2. **Discharges to Temporary Staging Areas at Regulated Facilities**
3. **Discharges to Temporary Staging Areas Not at Regulated Facilities**
4. **Discharges to Temporary Surface Impoundments Not at Regulated Facilities**

Pursuant to the Conditional Waiver, dischargers are required to submit an NOI with property/facility/owner information, a description of the discharge (source, pollutants of concern, period, and frequency, etc.), location information, a description of management measures and best management practices to minimize or eliminate the discharge of pollutants to waters of the

state, compliance information regarding conditions of the Conditional Waiver, and a legal certification. Additionally, emergency waste must be adequately characterized for both temporary waste handling and final disposal with characterization results submitted to Central Coast Water Board staff. Regulated landfills enrolled under the Conditional Waiver for emergency waste disposal must also amend their facilities Joint Technical Document to describe the material change to their discharge pertaining to the temporary acceptance, management, and disposal of emergency waste. Finally, the Conditional Waiver requires temporary staging areas and surface impoundments to be restored to original conditions along with documentation to be submitted to the Central Coast Water Board via a Notice of Termination (NOT). Regulated landfills enrolled in the Conditional Waiver and accepting emergency waste for final disposal must also submit an NOT, which documents waste types accepted, final disposal location, and approximate volumes disposed.

The Conditional Waiver provides a streamlined approach for future cleanup efforts in the Region in the event of a disaster related emergency, and facilitates disposal of cleanup wastes at appropriate disposal facilities, including regulated landfills with a composite liner and/or wastewater treatment facilities.

## **ENVIRONMENTAL SUMMARY**

Waivers of reports of waste discharge and waste discharge requirements for emergencies in a Declared Disaster Area are not subject to CEQA because section 13269(c) of the California Water Code already waives such reports and requirements upon notification to the Central Coast Water Board. In addition, this Conditional Waiver is exempt from CEQA because it only applies to emergency activities in a disaster area in which a state of emergency has been proclaimed by the Governor [Title 14, California Code of Regulations, section 15269(a) and Public Resources Code section 21080(b)(4)]. For emergencies that are not in a Declared Disaster Area, this Conditional Waiver is exempt from CEQA because it only applies to activities necessary to prevent or mitigate an emergency, as defined by CEQA [Title 14, California Code of Regulations, section 15269(c) and Public Resources Code section 21080(b)(4)].

## **NOTIFICATION AND WRITTEN COMMENTS**

The Central Coast Water Board notified interested agencies and persons of interest of its intent to conditionally waive the requirement to file a report of waste discharge and to prescribe waste discharge requirements for disaster related emergency waste handling and disposal on February 22, 2016. The draft Conditional Waiver was posted on the Central Coast Water Board website on February 22, 2016. Notification was provided through direct mailing to interested agencies and persons, which included non-governmental organizations, municipalities, counties, state agencies, and regulated landfill owners/operators.

## **RESPONSE TO COMMENTS**

NA

**RECOMMENDATION**

Adopt Order No. R3-2016-0001.

**ATTACHMENTS**

1. Order No. R3-2016-0001
2. Order No. R3-2016-0001 Attachment A and B

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