

Response to Written Public Comments

Written comments on the proposed Order No. R1-2012-0010 were received during the public comment period from the following commenters:

- Matt Green Forestry & Biological Consulting
- Alan Levine, Coast Action Group
- Bill Snyder, CAL FIRE
- Andrew J. Orahoske

These comment letters are posted on the Regional Water Board website and included in the Board member agenda package. The key elements of the comments are summarized below, followed by the Regional Water Board staff responses.

Matt Greene Forestry & Biological Consulting

You might want to consider one thing with the date of August 2012. A lot of individuals will be right in the middle of logging in August, so to extend the Order for only part of the season could cause issues with regard to when they are covered and when they need to get a new permit.

Comment: Individuals will be right in the middle of operations at that point, will they need to file a new notice while mid-project?

Response: Landowners that submit Notices of Timber Operations (NTOs) for NTMPs that are covered by the Waiver prior to any action by the Regional Water Board in August 2011 would not be required to apply for coverage again for that NTO.

Alan Levine COAST ACTION GROUP

CAG (and other parties - including EPIC) have comments on file disagreeing with the Limited Term Amendment. This Limited Term Amendment suspends provisions in the Waste Discharge Requirement and Condition Waiver for NTMPs.

Our comments, and our Petition, indicate that:
Essentially, there is no real qualitative difference in effects on the ground in the application of the Forest Practice Rules to Timber Harvest Plans and Non-Industrial Timber Harvest Plans. There is no valid or reasonable assumption,

science, or reasoning to should preclude application of the Timber WDRs and/or Conditional Waiver to NTMPs.

We have submitted substantial evidence to support the above noted statements. All of our previous comments (including arguments noted in the Petition filed on our behalf by Paul Carroll) to the file still stand - and must be carried forward in this proposed action as part of the record. Thus, we cannot support this proposed extension.

Suspension of such WDRs and Waiver Conditions are improper and will necessarily have environmental consequences.

Such Suspension is a project under the California Environmental Act. Environmental review, including discussion and mitigation of the effects related to this action are required under the Public Resources Code.

The Regional Board has proceeded in violation of the Public Resources Code. In February, the term of our Petition is concluded. We will consider what legal action to take at that time. Please supply some information that would support our not moving forward in an action to seek legal remedy. Please consider the statement, above, as comment to the file. Please notice Coast Action Group of any changes to the proposed action.

Comment: Documentation, comments, and reports previously submitted by CAG and in the Regional Water Board files for Order No. R1-2009-0038 and Order No. R1-2011-0038 "shall be carried forward by reference to the file of the newly proposed Order No. R1-2012-0010."

Response: All relevant documents, comments, and reports are part of the record associated with the proposed Order.

Comment: Suspension [of the 2009 Waiver conditions] is a project under the California Environmental Act. Environmental review, including discussion and mitigation of the effects related to this action are required under the Public Resources Code. The Regional Board has proceeded in violation of the Public Resources Code. Suspension of such WDRs and Waiver Conditions are improper and will necessarily have environmental consequences.

Response: The Regional Water Board has determined that the proposed temporary extension of the Limited Term Amendment is a "project" in accordance with CEQA. CEQA Guidelines (section 15000 et seq of title 14 of the California Code of Regulations) allows a lead agency to

find a project exempt from CEQA if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Finding No. 8 of the tentative Order establishes that the temporary extension of the Limited Term Amendment will not have any effect on the environment because the environmental baseline, against which the Regional Water Board considers the environmental impacts of a project, includes the protections provided by the previous waiver. There is no possibility that the project will have a significant effect on the environment, and it is, therefore, exempt from CEQA. The Regional Water Board has not proceeded in violation of the Public Resources Code.

CEQA Guidelines (section 15000 et seq of title 14 of the California Code of Regulations) allows a lead agency to find a project exempt from CEQA if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.”

This action by the Regional Water Board temporarily returns regulation of waste discharges from NTMPs to conditions that were in effect from June 2004 to June 2009. The environmental impacts of these conditions were evaluated in an initial study and a Negative Declaration completed and adopted by the Regional Water Board associated with Order R1-2004-0016.

Bill Snyder, CAL FIRE

The Department of Forestry and Fire Protection (CAL FIRE) supports the adoption of the Extension of Limited Term Amendment draft Order No. R1-2012-0010 by the North Coast Regional Water Quality Control Board (NCRWQCB) for the reasons described in the draft Order. The primary reasons are to allow more time for field data collection and analysis.

Comment: The extension as proposed is through August 23, 2012, which will allow more time for field data collection. However, extending that date another 90 days to November 23, 2012, would allow a second full season of field data collection and a short period for analysis of the data. CAL FIRE supports the proposed August 23, 2012 extension, but recommends a November 23, 2012 extension.

Response: Comment noted. Regional Water Board staff agree that extending the amendment an additional 90 days would provide more time for

analysis; however, staff are prepared to complete our review by August 23, 2012, as noticed.

Andrew J. Orahoske
Conservation Director, Environmental Protection Information Center

The initial order (Order No. R1-2009-0038) imposing the conditions necessary to protect beneficial uses from operations from Timber Harvest Plans and NTMPs was approved, with supporting findings and scientific evidence (in the file), stating that the provisions were needed to protect the environment. The subsequent order (Order No. R1-2011-0038) suspending the needed protective provisions, with no supporting findings, claimed a common sense exemption to CEQA – that this action would have no effect on the environment. Given the noted potential of adverse effects from timber operations, removing (or suspending) requirements for shade canopy and road management are noted (by evidence the file) to be very likely to have an effect on the environment – and are contrary to previous findings made by the Regional Board and evidence in the file.

Comment: EPIC requests that the North Coast Board reinstate the initial order (Order No. R1-2009-0038) for NTMP waste discharge requirements and dispense with the suspension in its entirety.

Response: Comment noted. The extension of time is necessary to allow for ongoing investigations into the adequacy of the Forest Practice Rules to protect water quality within NTMPs to be completed. At that time, Regional Water Board staff will have a sufficient amount of data in order to inform an effective evaluation of the existing Waiver of WDRs.