

NOTICE OF PUBLIC HEARING

Order No. R1-2013-0005

General Waste Discharge Requirements for Discharges
for
Timber Operations on Non-Industrial Timber Management Plans
in the
North Coast Region

NOTICE IS HEREBY GIVEN that North Coast Regional Water Quality Control Board (Regional Water Board) will conduct a public hearing to consider adoption of proposed Order No. R1-2013-0005, *General Waste Discharge Requirements for Discharges for Timber Operations on Non-Industrial Timber Management Plans (NTMPs) in the North Coast Region (NTMP WDR)*.

The public hearing is scheduled for May 2, 2013, at 9:00 a.m., or as announced in the Regional Water Board's agenda. The meeting will be held at the Wharfinger Building, #1 Marina Way, Eureka, CA 95550. At the public hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed waste discharge requirements (WDRs).

Overview

In June, 2009, the Regional Water Board adopted Order No. R1-2009-0038, Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region (Categorical Waiver), that updated and added specific conditions for Non-industrial Timber Management Plans (NTMPs) not required under the previous waiver. On March 24, 2011, the Regional Water Board adopted a Limited Term Amendment to the Categorical Waiver (Order No. R1-2011-0038) which stayed the new NTMP provisions to provide Regional Water Board staff time to evaluate the adequacy of the Forest Practice Rules (FPRs), including new Anadromous Salmonid Protection (ASP) rules, to protect water quality within NTMPs and to engage in dialogue with stakeholders to align waiver conditions that implement water quality standards with practical considerations of landowners, foresters and the Department of Forestry and Fire Protection (CAL FIRE).

Regional Water Board staff concluded their investigations and stakeholder outreach in collaboration with CAL FIRE and based on the results of these efforts, developed draft Order No. R1-2013-0005, Waiver of Waste Discharge Requirements specific to NTMPs (NTMP Order). The NTMP Order was publicly noticed on January 8, 2013 and the comment period ended on February 11, 2013. In the draft NTMP Order, Regional Water Board staff proposed a tiered approach that allows NTMPs landowners two options for coverage: a) identify and treat all controllable sediment discharge sites within an area covered by a Notice of Timber Operations (NTO) that have the potential to adversely impact the beneficial uses of water, concurrent with operations under the NTO; or b) prepare an Erosion Control Plan (ECP) for the entire NTMP area and treat sediment discharge sites according to an implementation schedule proposed by the landowner.

The Regional Water Board staff conducted a public Workshop on January 24, 2013.

The Regional Water Board received 18 comment letters on the draft NTMP Order, as well as verbal comments made during the January 24, 2013 workshop in Santa Rosa. Comments generally fell into two categories as follows:

- 1) Comments by landowners and Registered Professional Foresters (RPF) asserting that several of the waiver conditions related to inspections and reporting were too stringent, requiring additional cost and effort on paperwork with no additional on-the-ground water quality benefits, and unnecessarily duplicate requirements of the FPRs, and;
- 2) Comments by members of environmental groups asserting that the draft waiver is not sufficiently stringent to protect water quality by overly relying on the California FPR and not complying with the requirements of CEQA and the Anti-Degradation Policy.

The Regional Water Board directed staff to continue and complete ongoing discussions with stakeholders and bring a final order for Regional Water Board consideration at the May 2, 2013 Board Meeting. Consistent with this direction, Regional Water Board and CAL FIRE staff met to explore ways to further align the agencies' procedures and to identify ways to increase the effectiveness of implementation of rules and management practice designed to protect water quality to the extent possible. Reliance on FPRs must include mechanisms to ensure that measures are implemented and functioning as expected and provide processes for correction if necessary. Regional Water Board staff made changes to the order that reflect these considerations.

Revised conditions require a NTO completion inspection and annual inspections during the erosion control maintenance period, and specify that inspections conducted pursuant to FPRs requirements, including CAL FIRE completion and maintenance inspections, can satisfy these inspection needs. In addition, specific Tier B conditions were revised to ensure that ECPs are maintained as necessary to function as long term tools to control sediment discharge from NTMPs in accordance with the Basin Plan and Porter-Cologne Water Quality Control Act. On March 13, 2013, Regional Water Board staff held a focus group meeting consisting of representatives of CAL FIRE, RPFs, landowners, and environmental groups to discuss and provide input on revised waiver conditions. The focus group participants generally concurred with revisions but also concluded that establishing general WDRs for NTMPs (which unlike waivers, do not require renewal every 5 years) would be more consistent with the long term planning horizon inherent in NTMPs and associated ECPs.

Regional Water Board staff revised draft NTMP Order, such that it establishes WDRs, rather than waives WDRs. The proposed Order (NTMP WDR) retains the substantive elements of the January 8, 2013 draft NTMP Waiver, particularly the two tiered structure, and specific and general requirements.

Document Review

Copies of the draft Order, related documents, and comments received are on file and may be inspected or copied at the Regional Water Board office during normal business hours or viewed at:

http://www.waterboards.ca.gov/northcoast/board_decisions/tentative_orders/

http://www.waterboards.ca.gov/northcoast/public_notices/public_hearings/npdes_permits_and_wdrs.shtml

For further information, please contact Regional Board staff member Jim Burke (707) 576-2289 or James.Burke@waterboards.ca.gov.

Public Comment Period

The proposed changes to the draft Order are available for public review beginning on March 28, 2013 and ending at 5:00 p.m. on April 29, 2013. Persons wishing to comment in writing on the proposed changes made to the January 8, 2013 draft Order must submit comments to the Regional Water Board no later than 5:00 p.m. on April 29, 2013.

Written comments may be submitted by US mail, email, or fax to Jim Burke at:

North Coast Regional Water Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
James.Burke@waterboards.ca.gov
(707) 523-0135 Fax

Public Hearing Procedures

The public meeting to consider the draft Order has been scheduled for May 2, 2013, in Eureka at 8:30 a.m. The meeting will be held at the Wharfinger Building, #1 Marina Way, Eureka, CA 95550. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed Order, or take another action.

In order for the Regional Water Board to consider any evidentiary material concerning this hearing, any documents, including written technical reports and other evidentiary material, must be received by the Regional Water Board no later than 5:00 p.m., on **April 29, 2013**, at 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403. This written material will be submitted to the Regional Water Board member and all interested persons along with the full agenda materials.

Written material received after the above date will not be accepted except at the discretion of the Regional Water Board Chair. Untimely written material will not be accepted or incorporated into the administrative record if doing so would prejudice the Discharger or the Regional Water Board staff. The Chair may choose to modify this rule upon a showing of severe hardship (California Code of Regulations, title 23, sections 648.1 and 648.4).

All those who plan to testify at the hearing must submit written statements to the Regional Water Board. The statements should provide the name of the witness, their qualifications (if an expert), and the scope of their intended testimony. Testimony at the above-scheduled hearing may summarize or explain timely submitted or late accepted written evidence, but shall not add new evidence. The time constraints for oral testimony or comments will be set by the Regional Water Board Chair and usually allow no more than 15 minutes for Regional Water Board staff and the Discharger and three minutes for other interested persons. A timer may be used and speakers are expected to honor the time limits. Where speakers can be grouped by affiliation or interest, such groups will be expected to select a spokesperson and not be repetitive.

For directions to the North Coast Regional Water Quality Control Board offices, please refer to: <http://www.waterboards.ca.gov/northcoast/contact.html>. Parking for the meetings is available onsite. Individuals requiring special accommodations are requested to contact Ms. Patti Corsie, Executive Assistant, at (707) 576-2307 or PCorsie@waterboards.ca.gov at least five days prior to the meeting. TTY/TDD/Speech-to-Speech users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Ex parte communications are allowed in this matter subject to the disclosure requirements of Water Code section 13287. A form to assist in this process can be found on the Regional Water Board's website at:

http://www.waterboards.ca.gov/northcoast/public_notices/pdf/2013/130118_NorthCoast_disclosure.pdf.

The Water Board is required to post the disclosure on its website and to distribute it via any electronic distribution list for the proposed order. Ex parte disclosures shall not constitute written comments or evidence on a proposed general order. You must provide the comments or evidence by following the procedure and timelines provided above. **Ex parte communications are prohibited for a period beginning 14 days before the board meeting at which the proposed order is scheduled for board action.** For communications concerning any issue in this proceeding, ex parte communications are prohibited starting on March 14, 2013. If the board does not take action on May 2, 2013, the ex parte prohibition will remain in place until the board, the Chair or the Executive Officer directs otherwise. Once lifted, the prohibition on ex parte communications may be reinstated for 14 days before the day of the board meeting to which the decision is continued. The board will provide notice via the Lyris and the interested parties email lists for this item if the prohibition is lifted and/or reinstated.