

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
Wednesday, April 17, 2019
Regional Water Board Office
Santa Rosa, California

ITEM: 6

SUBJECT: Public Hearing on Order No. R1-2019-0008 to consider the matter of Short-Term Renewal of Order No. R1-2014-0011, *Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region (Devon Jorgenson)*

BOARD ACTION: The North Coast Regional Water Quality Control Board (Regional Water Board) will consider adoption of Order No. R1-2019-0008.

BACKGROUND: On May 8, 2014, the Regional Water Board adopted Order No. R1-2014-0011, *Categorical Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region (2014 Categorical Waiver)*. The 2014 Categorical Waiver is scheduled to expire on May 8, 2019. On January 4, 2019, the Regional Water Board issued a Notice of Public Hearing and Comment Period (Notice) for proposed Order No. R1-2019-0008 (Proposed Order) which provides a short-term renewal of the 2014 Categorical Waiver. A short-term renewal of the 2014 Categorical Waiver is necessary and appropriate to maintain permit coverage on existing and new eligible timber harvesting projects, and to allow additional time for Regional Water Board staff to update the forest activities regulatory program for certain project types.

The 2014 Categorical Waiver applies to five categories of timber harvest activities as defined in the Forest Practice Rules (FPRs) (Cal. Code Regs., tit. 14, §§ 895-1115.3)¹, and establishes general and specific conditions and eligibility criteria for each category for which WDRs can be waived. The five categories of timber harvest activities include: 1) emergency and exempt operations (e.g., treatment of isolated infestation of Sudden Oak Death; harvesting Christmas trees; reduction of high fuel hazard; removal of fallen, damaged, dead, dying, or diseased trees); 2) conversion exemptions (e.g., conversion of less than three acres, construction or maintenance of right-of-way by a public agency on public property); 3) THPs subject to the requirements of a Sediment Total Maximum Daily Load Action Plan; 4) modified THPs; and, 5) "other" THPs that are determined on a case-by-case

¹ The FPRs may be accessed at the following website:
http://calfire.ca.gov/resource_mgt/downloads/2019%20Forest%20Practice%20Rules%20and%20Act_FINAL_1-28-18.pdf

basis to pose a low or insignificant threat to water quality and are in compliance with CEQA requirements.

DISCUSSION: The intent of this short-term renewal is to allow continued use of the 2014 Categorical Waiver while providing Regional Water Board staff additional time to evaluate the current eligibility criteria and specific conditions, and to consider several new and ongoing developments within the North Coast Region and statewide that may warrant modifications to the 2014 Categorical Waiver. Important developments that may require additional modifications to the 2014 Categorical Waiver include: the former California Governor Brown's issuance of Executive Order on Forests (Executive Order B-52-18) which seeks to increase the pace and scale of prescribed fire, fuel reduction and forest thinning to improve forest resilience; California Governor Newsom's Executive Order (Executive Order N-05-19) which further focuses the state's efforts on wildfire prevention and community protections; large-scale wildfires that are increasing the number of post-fire salvage projects; and, the creation of new or modification of existing timber harvesting projects as a result of new statutory or regulatory requirements pursuant to Senate Bill 901.

SB 901, approved by Governor Brown on September 21, 2018, requires extensive revisions to the Forest Practice Rules (FPR) as part of a statewide effort to reduce catastrophic wildfire occurrence that threaten communities and the environment. SB 901 requires revisions to certain exemptions from FPR requirements to prepare timber harvesting plans. SB 901 creates two new exemption types: the Small Timberland Owner Exemption and the Forest Fire Prevention Exemption. In addition to these new exemptions, SB 901 requires revisions to Nonindustrial Timber Management Plans and Working Forest Management Plans, and creates new processes for vegetation management along utility corridors. The California Board of Forestry and Fire Protection (Board of Forestry) is currently working on revisions to the FPRs as required by SB 901. Regional Water Board staff will consider any revisions to the FPRs approved by the Board of Forestry prior to proposing a revised Waiver or Waste Discharge Requirements for the Regional Water Board's consideration. Accordingly, a short-term renewal of the 2014 Categorical Waiver allows Regional Water Board staff adequate time to determine the water quality implications of SB 901 and how FPR revisions inform possible revisions to the 2014 Categorical Waiver.

Regional Water Board staff recently developed a workplan to inspect and evaluate a sample population of recent post-fire salvage projects conducted under the rules for Emergency Notice pursuant to FPRs. Post-fire salvage projects conducted pursuant to an Emergency Notice are automatically enrolled and covered under Categorical Waiver A of the 2014 Categorical Waiver. The objectives of this workplan are to systematically collect observations of the effectiveness of management practices implemented on recently completed post-fire salvage projects, and to evaluate the current permitting process and whether revisions to the 2014 Categorical Waiver are warranted to ensure post-fire salvage projects comply with the Basin Plan.

Concurrently, as part of the approval of SB 901, Public Resources Code section 4589 was amended to require the California Department of Forestry and Fire Protection (CAL FIRE), in consultation with the State Water Resources Control Board and California Department of Fish and Wildlife, to conduct investigations and report annually to the Legislature on the trends in the use of, compliance with, and effectiveness of forest management and associated activities conducted through the CAL FIRE's exemptions and emergency notices. As a result of these parallel efforts, CAL FIRE and the Regional Water Board began collaborating to conduct inspections of Emergency Notices as part of the workplan and SB 901 requirements. These inspections will inform staff of the effectiveness of the 2014 Categorical Waiver in protecting water quality from post-fire salvage projects and inform potential future revisions to the 2014 Categorical Waiver associated with these projects.

A short-term renewal of the 2014 Categorical Waiver will provide Regional Water Board staff the additional time needed to implement the workplan, participate in the SB 901 monitoring with CAL FIRE, evaluate findings, and propose revisions to the 2014 Categorical Waiver. A short-term renewal of the 2014 Categorical Waiver is necessary and appropriate to maintain permit coverage on existing and new eligible timber harvesting projects and to allow additional time for Regional Water Board staff to update the forest activities regulatory program for the Regional Water Board's consideration. A renewal of the 2014 Categorical Waiver retains all of its provisions, which includes terms and conditions to protect water quality. For these reasons, a short-term renewal of the 2014 Categorical Waiver is in the public interest and consistent with the Basin Plan.

Following circulation for public review and comment, one non-substantive change was made to proposed Order No. R1-2019-0008 citing issuance of Governor Newsom's Executive Order N-05-19. Executive Order N-05-19 was issued following the start of the public comment period.

PUBLIC COMMENT: During the 30-day comment period, sixteen timely comment letters were received from individuals representing environmental groups, residents, and other interested parties. Regional Water Board staff's responses to these comment letters are provided in the attached document titled *Response to Written Comments*. No revisions to the short-term renewal were made as a result of received comment letters.

RECOMMENDATION: Adopt Order No. R1-2019-0008, as proposed.

SUPPORTING DOCUMENTS:

1. Proposed Order No. R1-2019-0008
2. Order No. R1-2014-0011
3. Response to Written Comments
4. Comment Letters
5. Notice of Public Hearing and Comment Period