

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

**STAFF REPORT FOR REGULAR MEETING OF MAY 12-13, 2016**

Prepared on April 19, 2016

**ITEM NUMBER: 8**

**SUBJECT: Conditional Waiver of Waste Discharge Requirements for Disaster Related Emergency Waste Handling and Disposal Within the Central Coast Region, Order No. R3-2016-0001 (Conditional Waiver)**

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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 take time and this would significantly delay 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 Within the Central Coast Region (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 Water Board conditional waivers all require 1) notification to the applicable Water Board following discharge of waste during a State of Emergency, 2) proper final disposal of emergency waste at an appropriate regulated facility, 3) siting conditions and discharge management measures or best management practices for temporary waste staging areas to prevent impacts to surface waters and/or groundwater, and 4) restoration of original site conditions upon closure of temporary waste staging areas (otherwise known 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 1) 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 to be discharged to mitigate an emergency, or 2) 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 minimize 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**

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, expected duration, 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. Dischargers must characterize emergency waste streams for both temporary waste handling and final disposal with characterization results submitted to Central Coast Water Board staff prior to final disposal. Hazardous wastes must be managed in accordance to applicable regulatory requirements and disposed of at an appropriate hazardous waste disposal facility.

Regulated landfills with composite liners may receive and dispose of nonhazardous emergency wastes to lined waste management units under the Conditional Waiver; however, they must, along with submitting an NOI for each emergency, amend their facilities Joint Technical Document (Report of Waste Discharge) to describe the temporary acceptance, management, and disposal of emergency waste. The required Joint Technical Document update is not intended to trigger an update of the landfills WDRs, but to insure adequate documentation of the characterization, location, and volume of emergency waste disposed. Regulated landfills enrolled in the Conditional Waiver and accepting emergency waste for final disposal must submit a Notice of Termination (NOT), which documents waste types accepted, final disposal location, and approximate volumes disposed.

The Conditional Waiver requires dischargers to restore temporary staging areas and surface impoundments to original conditions, and submit an NOT to the Central Coast Water Board that includes documentation that demonstrates the area has been returned to original conditions. Based on waste characterization, threat to water quality, and effectiveness of site management measures or best management practices, Central Coast Water Board staff may require additional site investigation to verify clean closure.

The Conditional Waiver provides a streamlined approach for future emergency cleanup efforts in the Central Coast Region, and facilitates disposal of cleanup wastes at appropriate disposal facilities.

## **ENVIRONMENTAL SUMMARY**

Waivers of reports of waste discharge and waste discharge requirements for emergencies in a Declared Disaster Area are not subject to the California Environmental Quality Act (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. After a 30-day public comment period, Central Coast Water Board staff received no comments on the proposed Conditional Waiver.

## **CONCLUSION**

The California Water Code already waives emergency waste discharges during an emergency with notification to the appropriate Water Board; however, the Conditional Waiver establishes minimum notification requirements to facilitate tracking, documentation, and regulatory oversight of temporary emergency waste staging areas and emergency waste disposal during and following an emergency. The proposed Conditional Waiver also includes additional conditions to prevent impacts to water quality and ensure adequate site cleanup for temporary waste staging areas, while still facilitating emergency response activities.

## **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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