

Emergency Transfer Processing Operations and Emergency Waivers for Solid Waste Facilities

The Governor Proclaimed a State of Emergency on October 30, 2015 due to severe drought conditions which have resulted in severe bark beetle infestations causing vast tree mortality in several regions of the state. To facilitate the processing of tree related debris, **existing solid waste facilities or locally approved temporary sites may be utilized to accept, store & process additional wood waste related to the tree mortality during the recovery phase of a state of emergency.** The waiver may not cause or contribute to a public health and safety or environmental problem.

The following local enforcement agencies (**LEAs**) are within the currently designated high-hazard areas and can be contacted to facilitate an Emergency Waiver or Emergency Transfer Processing Operation.

Kern: Jeffrey Marshall, Supervisor – 661-862-8775 - marshallj@co.kern.ca.us

Fresno: Glenn Allen, Supervisor - 559.600.3271 - glallen@co.fresno.ca.us

Madera: Monica Roath – 559-675-7823 – monica.roath@co.madera.ca.gov

Mariposa: Brian Hodge - 209-966-2220 - bhodge@mariposacounty.org

Tulare: Keith Jahnke - 559-624-7430 - kjahnke@tularehhsa.org

Tuolumne: Rachelle Williams - 209-533-5692 - RWilliams@co.tuolumne.ca.us

Please see information sheet outlining transfer processing operations and the emergency waiver process below. The regulations can also be found at: <http://www.calrecycle.ca.gov/Laws/Regulations/Title14/ch3a3.htm>

Emergency Transfer/Processing Operations	
Scope/Applicability	<ul style="list-style-type: none"> Title 14, California Code of Regulations (CCR) Section 17403.5, 18103 and specific State Minimum Standards (SMS)
EA Authority	<ul style="list-style-type: none"> Public Resources Code 43035, 14 CCR 17210 et. seq
Purpose and Limitations	<ul style="list-style-type: none"> Proclaimed state of emergency or local emergency, as defined (incl. an official designated by ordinance) Allows locally approved temporary transfer or processing site Enforcement Agency Notification Filed per 14 CCR18103 Record Keeping Requirements per 14 CCR18103.2 and Termination of Operation per 14 CCR 18103.3
Effective Period/Term	<ul style="list-style-type: none"> 120 days (initial) May be extended upon receipt of required reports
Request by Operator	<ul style="list-style-type: none"> Written request to EA after proclamation of emergency, including: <ul style="list-style-type: none"> EA Notification filed The operator to specify the operation’s boundary area in the operating record The land owner certifies his/her knowledge of the proposed activity and agrees to ensure proper termination
Enforcement Agency (EA)	<ul style="list-style-type: none"> EA Notification Received EA to inspect monthly to verify compliance with SMS The operation shall cease if EA finds the operation is: not being used exclusively to handle the state or local emergency; the operation is no longer necessary; operation contributes to a public health and safety or environmental problem or the operator is not utilizing disaster debris diversion programs to the extent feasible
Reporting by Operator to EA	<ul style="list-style-type: none"> Written report to EA within 90 days from receipt of EA Notification (14 CCR 17210.5 for contents of report) Review report - provides required information Report every 90 days thereafter while operation is active
Reporting by EA to CalRecycle	<ul style="list-style-type: none"> Transmit copy of EA Notification within 5 days of filing Submit copy of operator’s reports within 30 days of receipt
CalRecycle Powers & Duties	<ul style="list-style-type: none"> CalRecycle may condition, limit, suspend, terminate or inspect to determine if operation causes harm to public health, safety or environment or operator not utilizing diversion programs as identified in waiver Report at next monthly meeting
References	http://www.calrecycle.ca.gov/Laws/Regulations/Title14/ch5a3.htm#18103

Section 17403.5. Emergency Transfer/Processing Operations.

(a) All emergency transfer/processing operations shall comply with the Enforcement Agency Notification requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with section 18100). These operations shall be inspected by the EA as necessary to verify compliance with minimum standards, but in no case shall the frequency be less than monthly. The operator shall specify the operation's boundary area in the operating record.

(b) In addition, the emergency transfer/processing operations shall meet the following requirements:

- (1) the land owner has certified his/her knowledge of the proposed activity and agrees to ensure proper termination, and;
- (2) The operation shall not exist for a period of time greater than 120 days from the date that the Enforcement Agency Notification is received by the EA. Upon receipt of the reports required by section 17210.5, the operation may continue for an additional period as specified by the EA to assist in the recovery and clean-up as necessary from a state or local emergency.

(c) The emergency transfer/processing operation shall cease operation should the EA determine that any of the following occurs:

- (1) the emergency transfer/processing operation is not being used exclusively to handle the state or local emergency;
- (2) the emergency transfer/processing operation is no longer necessary in accordance with section 17210.2 of this Division;
- (3) the use of the emergency transfer/processing operation will cause or contribute to a public health and safety or environmental problem;
- (4) the operator is not utilizing disaster debris diversion programs to the extent feasible.

Emergency Waivers	
Scope/Applicability	<ul style="list-style-type: none"> • Specific State Minimum Standards (SMS) and/or Terms & Conditions (T&Cs) of Solid Waste Facility Permit (SWFP)
EA Authority	<ul style="list-style-type: none"> • Public Resources Code 43035, 14 California Code of Regulations (CCR) 17210 et. seq
Purpose and Limitations	<ul style="list-style-type: none"> • Proclaimed state of emergency or local emergency, as defined (incl. an official designated by ordinance) • Existing permitted solid waste facility or locally approved temporary site • Applies to SMS or T&C related to: <ul style="list-style-type: none"> • Origin of waste • Rate of inflow for storage, transfer or disposal • Type and moisture content of solid waste • Hours of operation • Storage times • Allows locally approved temporary transfer or processing site or compostable material handling site • Waiver may be modified, cancelled or revoked by EA
Effective Period/Term	<ul style="list-style-type: none"> • 120 days (initial) • May be extended upon receipt of required reports
Request by Operator	<ul style="list-style-type: none"> • Written request to EA after proclamation of emergency, including: <ul style="list-style-type: none"> • List of T&C to be waived (&/or SMS) • Remaining disposal capacity • Description of facility related diversion and recycling programs • List of locally approved temporary sites
Enforcement Agency (EA) Findings	<ul style="list-style-type: none"> • Waiver (i.e., letter) based on EA findings: <ul style="list-style-type: none"> • Valid SWFP • Not pose a threat to public health, safety, environment • Operator identifies and implements diversion programs of disaster related wastes
EA Review Times	<ul style="list-style-type: none"> • Grant or deny waiver within 7 days of receipt of request
Contents of Waiver	<ul style="list-style-type: none"> • Not specified (recommend restating above findings, SMS or T&C waived, effective period, etc.)
Reporting by Operator to EA	<ul style="list-style-type: none"> • Written report to EA within 90 days of granting waiver (14 CCR 17210.5 for contents of report) • Review report - provides required information • Report every 90 days thereafter while waiver active
Reporting by EA to CalRecycle	<ul style="list-style-type: none"> • Transmit copy of approved waiver within 15 days of issuance • Submit copy of operator's reports within 30 days of receipt
Selection of a Facility	<ul style="list-style-type: none"> • EA provide list of facilities with waiver to local government (incl capacity, hours, tonnage limits, recycling and diversion). • Diversion information made available by EA
CalRecycle Powers & Duties	<ul style="list-style-type: none"> • Review • Condition, limit, suspend, or terminate if cause harm to public health, safety or environment or operator not utilizing diversion programs as identified in waiver • Report at next monthly meeting
Guidance	LEA Advisory 41 (7/14/97): <ul style="list-style-type: none"> • http://www.calrecycle.ca.gov/LEA/Advisories/41/

Article 3. Emergency Waiver of Standards

Section 17210 Scope and Applicability.

(a) This article informs an operator, who holds a valid solid waste facilities permit, of the process for applying for an emergency waiver of standards (waiver) in the event of a state of emergency or local emergency. The waiver grants an operator temporary relief from specific standards imposed by this Division or specific terms or conditions of a solid waste facilities permit issued pursuant to this Division. This Article implements and makes specific those provisions of Section 43035 of the Public Resources Code relating to the integrated waste management disaster plan.

(b) This Article is not intended to limit the authority of the state or a local agency during a disaster or emergency.

Section 17210.1 Definitions.

(a) "Agency" means the local agency responsible for compiling the disposal information from haulers and operators. The county is the agency, unless a region is given the responsibility as part of a regional agreement.

(b) "Board" means the California Integrated Waste Management Board.

(c) "Disaster" means a natural catastrophe such as an earthquake, fire, flood, landslide, or volcanic eruption, or, regardless of cause, any explosion, fire, or flood.

(d) "Disaster Debris" means nonhazardous solid waste caused by or directly related to a disaster.

(e) "Diversion" means the directing of solid waste from disposal or transformation by means of recycling, reuse, or composting.

(f) "Emergency Waiver of Standards" means the document signifying approval by an enforcement agency which allows an operator, who holds a valid solid waste facilities permit, the ability to deviate from specified state minimum solid waste standards or terms or conditions of a solid waste facilities permit issued pursuant to this Division. The waiver applies to the origin of waste; the rate of inflow for storage, transfer, or disposal of waste; the type and moisture content of solid waste; the hours of facility operation; and the storage time before transfer or disposal of wastes, at a solid waste facility. This includes the establishment of a locally-approved temporary transfer or processing site, if authorized by the enforcement agency.

(g) "Enforcement Agency" means the agency designated pursuant to the requirements set forth in Public Resources Code, sections 43200 through 43221, or the Executive Director of the Board in the event that the enforcement agency (EA) is incapable of responding due to the nature of the emergency.

(h) "Extent Feasible" is evidenced by the use of maximum efforts to recycle, reuse, or otherwise divert from disposal as much of the debris and other nonhazardous waste received by the solid waste facility as possible, as determined by the operator.

(i) "Jurisdiction of Origin" means the incorporated city or the unincorporated area of the county where the waste originated.

(j) "Local Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, as described in Government Code section 8558(c), which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, as stated in the proclamation by the governing body of a county, city and county, or city, or by an official so designated by ordinance adopted by such governing body to issue such proclamation.

(k) "State of Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state, as described in Government Code section 8558(b), which conditions, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city, and require the combined forces of a mutual aid region or regions to combat, as stated in a proclamation by the Governor.

Section 17210.2 Purpose and Limitation of Emergency Waiver.

(a) An emergency waiver may only be issued when there has been a proclamation of a state of emergency or local emergency, as those terms are defined in this Article.

(b) An EA may approve and issue a waiver for the express purpose of enabling an operator of an existing permitted solid waste facility, a locally-approved temporary transfer or processing site, or a locally-approved temporary compostable material handling activity, to accept disaster debris and other nonhazardous wastes, in a manner not consistent with the terms and conditions of the relevant solid waste facilities permit or applicable state minimum standards, during the recovery phase of a state of emergency or local emergency.

(c) The waiver may apply to specified state minimum solid waste standards or a specific term or condition of a solid waste facilities permit at an existing solid waste facility, a locally-approved temporary transfer or processing site, or a locally-approved temporary compostable material handling activity, which are related to the following: the origin of waste; the rate of inflow for storage, transfer, processing, or disposal of waste; the type and moisture content of solid waste; the hours of facility operation; and the storage time before transfer, processing, or disposal of nonhazardous waste.

(d) The effective period of an initial waiver, once granted by the EA, shall not exceed 120 days. Upon receipt of the reports required in section 17210.5, the EA may extend the effective period of a waiver, as necessary, to assist in the recovery from an emergency.

(e) All other state minimum standards and permit conditions which are not the subject of the waiver shall remain in effect.

(f) A waiver may be modified, canceled, or revoked by the EA without advance notice should the EA determine that any of the following occurs:

(1) The use of such a waiver will cause or contribute to a public health and safety or environmental problem;

- (2) The terms of the waiver are not being used expressly to handle the state of emergency or local emergency and are not in the best interest of the public health and safety;
- (3) The waiver is no longer necessary;
- (4) The solid waste facility operator is not utilizing disaster debris diversion programs to the extent feasible.

Section 17210.3 Request for an Emergency Waiver.

- (a) An operator may apply to an EA for a waiver after a disaster or emergency situation as defined in this Article, has been declared. The waiver shall only be granted with the express approval of the EA following a proclamation of emergency or declaration of disaster at the local or state levels.
- (b) To obtain a waiver, a solid waste facility operator shall submit a written request to the EA. The request for a waiver shall include, but not be limited to, the following information:
 - (1) A listing of the existing solid waste facilities permit terms and conditions to be waived in order to facilitate recovery and disposal of disaster debris in the event of a declared disaster or emergency;
 - (2) A statement of the remaining disposal capacity of the solid waste disposal facility at the time of the request;
 - (3) A description of all facility-related diversion programs and on-site recycling facilities; and
 - (4) A listing of locally-approved temporary transfer or processing sites to be used to store disaster debris for future reuse or recycling.