

**PROPOSED REGULATIONS
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**

TEXT OF REGULATIONS

California Code of Regulations

Title 14.Natural Resources

Division 7.California Integrated Waste Management Board

Chapter 3.Minimum Standards for Solid Waste Handling and Disposal

Article 3.Emergency Waiver of Standards

DETAILED ANALYSIS

Section

17210.	Scope and Applicability
17210.1	Definitions
17210.2	Purpose and Limitations of an Emergency Waiver
17210.3	Request for an Emergency Waiver
17210.4	Granting an Emergency Waiver
17210.5	Reporting Requirements for a Solid Waste Facility Operator
17210.6	Reporting Requirements for an Enforcement Agency
17210.7	Selection of a Solid Waste Facility for Emergency Disposal and Diversion
17210.8	Authority of an Enforcement Agency
17210.9	Executive Director's Powers and Duties Relative to the Emergency Waiver

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.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code.
Reference: Sections 40001, 40002, 40051, 40052, 40053, 40054, 40055, 40056, 40057, 43020, and 43021 of the Public Resources Code.

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.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40002, 43020, 43021, and 43035, Public Resources Code.

Section 17210.2 Purpose and Limitations of an 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 or a locally-approved temporary transfer or processing site 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, 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 or a locally-approved temporary transfer or processing site 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.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40002, 43020, 43021, and 43035, Public Resources Code.

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.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40001, 40002, 43020, 43021 and 43035, Public Resources Code.

Section 17210.4 Granting an Emergency Waiver.

- (a) The EA may grant a waiver during a proclamation of emergency upon making the following findings:
 - (1) The operator applying for the waiver holds a valid solid waste facilities permit;
 - (2) The waiver will not pose a threat to public health and safety or the environment;
 - (3) The operator identifies and implements, to the extent feasible, diversion programs to maximize diversion through reuse, recycling, or composting of disaster-related waste.
- (b) Within 7 days of receipt of the solid waste facility operator's request for a waiver, the EA shall notify the solid waste facility operator in writing whether or not the request for waiver has been granted. If the proposed waiver is not granted, the EA's notification shall contain reasons for the denial. The solid waste facility operator may reapply for the waiver at a later date or submit necessary documentation to receive the waiver immediately.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40002, 43020, 43021, and 43035, Public Resources Code.

Section 17210.5 Reporting Requirements for a Solid Waste Facility Operator.

- (a) The solid waste facility operator shall submit a written report to the EA and the local county agency (agency) within 90 days of activation of the waiver and every 90 days thereafter for the effective period of the activated waiver.

- (b) The written report shall include the following information:
 - (1) The daily amount of disaster debris received, diverted, and disposed at the facility;
 - (2) The jurisdiction of origin for the disaster debris received at the facility;
 - (3) The increase in tonnage or volume of waste received per day during the effective period of the activated waiver; and
 - (4) The facilities used to process the disaster debris.
- (c) If pursuant to section 17210.2(d) of this Article, the waiver is extended beyond 120 days, the operator shall submit a report, as described in subparagraph (b), to the EA and agency. The report shall be submitted once every 90 days until the end of the effective period of the waiver.
- (d) After the activated waiver expires, the solid waste facility operator shall continue to submit the information requested in item (b) above to the EA and agency, every 90 days, until there is no longer any discernable disaster related waste being processed or stored at the facility.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40002, 43020, 43021, and 43035, Public Resources Code.

Section 17210.6 Reporting Requirements for an Enforcement Agency.

- (a) The EA shall transmit a copy of the approved waiver to the Board within 15 days of its issuance.
- (b) The EA shall submit a copy of the operator's written reports to the Board within 30 days of the receipt of the reports.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40002, 43020, 43021 and 43035, Public Resources Code.

Section 17210.7 Selection of a Solid Waste Facility for Emergency Disposal and Diversion.

- (a) In the event of a state of emergency or local emergency, the EA shall do the following:
 - (1) Assist a local government within its jurisdiction by providing a list of solid waste disposal facilities which have been granted a waiver. The list shall include site capacity for acceptance of waste, hours of operation,

daily tonnage limits during the emergency, and on-site recycling and diversion for disaster-related debris.

- (2) Survey the solid waste facilities within its jurisdiction and determine the diversion programs available at the facilities. Diversion information will be made available by the EA to an affected local jurisdiction and to the public during a declared emergency.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40002, 43020, 43021, and 43035, Public Resources Code.

Section 17210.8 Authority of an Enforcement Agency.

- (a) An EA may approve waivers of minimum standards and specific terms or conditions of a solid waste facilities permit, as needed, to respond to a disaster or emergency situation, as defined in section 17210.1.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40001, 40002, 40051, 40052, 40053, 40054, 40055, 40056, 40057, 43020, and 43021 of the Public Resources Code.

Section 17210.9 Executive Director's Powers and Duties Relative to the Emergency Waiver.

- (a) Once the waiver is issued, the Executive Director of the Board shall review all EA waiver approvals. The Executive Director may condition, limit, suspend, or terminate an operator's use of a waiver, if it is determined that use of the waiver would cause harm to public health and safety, or the environment.
- (b) The Executive Director may condition, limit, suspend, or terminate an operator's use of a waiver if it is found that the operator has not utilized reasonably available waste diversion programs as identified in its waiver documentation.
- (c) The Executive Director shall report to the Board at a regularly scheduled meeting any granting of a waiver, and all determinations made concerning the waiver.

NOTE: Authority cited: Sections 40502 and 43035, Public Resources Code. Reference: Sections 40002, 43020, 43021, and 43035, Public Resources Code.