

EXECUTIVE OFFICER'S SUMMARY REPORT
8:30 a.m., January 21, 2010
Regional Water Board Office
David C. Joseph Hearing Room
5550 Skylane Blvd, Suite A
Santa Rosa, CA

ITEM: 7

SUBJECT: Regulation of Dairies in the North Coast Region

DISCUSSION

Dairies are an integral element of the economy of the North Coast Region, and of the landscape. As with any concentrated animal operation, waste handling is a concern for water quality. Over the years, water quality regulation of dairies has centered around limiting runoff and managing waste disposal on pasture lands. With increased knowledge and concern for nutrient enrichment of our waters, the issue of nutrient importation into a watershed and the timing and distribution of waste disposal needs to be addressed in a more structured fashion. The range of conditions and variability among dairies in the North Coast Region presents a particular complexity to regulation that requires a multifaceted approach.

There is a range of mechanisms when it comes to regulating dairies: the Federal NPDES CAFO (Confined Animal Feeding Operations) regulations were finalized in October 2008 (Attachments A & B); the General Industrial Stormwater permit (for storm water discharges from certain industrial process areas); Waste Discharge Requirements (WDRs), both individual and general; and waivers of WDRs. Each regulatory vehicle has its own utility, depending on the situation. Consequently, each of the Regional Boards that have dairy programs use one or more of these mechanisms.

The other Regional Boards presently have the following regulatory structures:

Region 2 – General Waste Discharge Requirements for Dairies and a Waiver of General Waste Discharge Requirements for Dairies (now expired and being revised.) In addition, they have a conditional grazing waiver in place in the Tomales Bay watershed, which has a TMDL for pathogens.

Region 3 – Waste Discharge Requirements General Order for Existing Milk Cow Dairies

Region 5 – Waste Discharge Requirements General Order No. R5-2007-0035 for Existing Milk Cow Dairies (General Order)

Region 7 – NPDES Permit and Waste Discharge Requirements for Concentrated Animal Feeding Operations (CAFOs)

Region 8 – Order R8-2007-0001, NPDES General Waste Discharge Requirements for Concentrated Animal Feeding Operations (Dairies and Related Facilities) within the Santa Ana Region

Region 9 – Resolution No. R9-2007-0104, Conditional Waiver for Discharges from Animal Operations, and individual WDRs.

Additionally, the State Water Board's Industrial Storm Water General Permit Order 97-03-DWQ covers confined animal feeding operations. A State Water Board informational document ("Permitting Requirements for Dairies In California") is attached (Attachment C) that provides additional information on dairy regulation.

Most of the Water Boards' regulatory mechanisms prohibit surface water discharges of process water and require some form of Nutrient Management Plan (NMP) and annual reporting. Some only require the CAFO keep the NMP onsite; the Federal rules require the submission of an NMP with the application for a NPDES permit.

In our region we have utilized a combination of an industrial stormwater permit (presently five dairies, all in Sonoma County), and individual waste discharge requirements (Alexandre Dairy). We also have a conditional waiver ("Confined Animal Wastes" under Resolution R1-2007-0098) that relies heavily on Title 27 regulations (solid waste disposal). However, there are concerns that Title 27 may not be sufficiently protective of all water resources; for example, the minimum pond standards do not meet those required under the Federal regulations. Also, Title 27 regulations do not appear to be responsive to the full range of facilities, activities, and impacts that dairies represent.

We are taking an inter-division approach to the development of a dairy regulatory mechanism, since there are elements of both core regulatory and nonpoint source programs. We also are in communication with Region 2 staff, as they revise their WDRs on a similar schedule, and with the USEPA, which is a good resource as we move forward, and who has offered technical assistance to us for developing a General NPDES permit through their contractors (TetraTech and PG Environmental). We have also been communicating with the dairy industry and will initiate a substantial outreach and public participation process in both the northern and southern portions of our Region. Our next step is to meet with dairy interests and share with them options for developing a regulatory framework. We will update the Board on our progress after that meeting.

PRELIMINARY STAFF
RECOMMENDATION:

Informational Item Only