

**California Regional Water Quality Control Board**  
**Conditional Waiver of Waste Discharge Requirements**  
**Order No. R1-2012-0003**  
**for Existing Cow Dairies**  
**In the North Coast Region**

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board) finds that:

1. Order No. R1-2012-0003 (hereafter, "Order") serves as a Conditional Waiver of Waste Discharge Requirements (Waiver) for existing cow dairies in the North Coast Region that meet the requirements established in this Order. For purposes of this Order, "existing dairies" are defined as cow dairies that are constructed and operating as of the effective date of this Order, and which have subsequently undergone no expansion in size of their physical facilities. This Order does not cover dairies that expand the size of their physical facilities beyond the dairy's maximum capacity at the time of adoption of this Order. Also, this Order does not cover facilities that were not operating as dairies at the time of adoption of this Order. New or expanding dairies must apply for an individual waste discharge permit or individual waiver of waste discharge requirements from the Regional Water Board.
2. The North Coast Region contains approximately 150 dairies, housing about 50,000 cows. The owner and/or operator of a dairy is/are hereinafter identified jointly and severably as "Discharger."
3. Dairy operations can cause degradation of water quality of surface and groundwater as a result of waste discharges and activities that result in soil erosion and destruction of riparian habitat.
4. This Order covers the management of process water, manure, and other organic materials at dairy operations including the application of such materials to cropland. Other wastes such as medicines, pesticides, chemicals, and fertilizers must be disposed at appropriately permitted facilities.

**LEGAL AND REGULATORY FRAMEWORK**

5. California Water Code (CWC) Section 13260 (a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, must file with the appropriate regional water board a report of waste discharge (ROWD) containing such information and data as may be required.

6. Pursuant to CWC Section 13260, regional water boards prescribe waste discharge requirements (WDRs) except when it finds, pursuant to CWC Section 13269, that a waiver of WDRs for a specific type of discharge is in the public interest.
7. CWC Section 13263(i) authorizes the Regional Water Board to prescribe general WDRs and/or waivers of WDRs for a category of discharges if the discharges are produced by the same or similar operations, involve the same or similar types of waste, require the same or similar treatment standards, and are more appropriately regulated under general WDRs or waivers than individual WDRs.
8. Pursuant to CWC Section 13269, waivers of WDRs shall not exceed five (5) years in duration. Enrollment in this Order (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Water Board from administering enforcement remedies (including civil penalties) pursuant to the CWC and other applicable law.
9. Any person may be liable for penalties if that person violates a condition of a waiver or WDR, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance.
10. This Order shall not create a vested right, and all discharges covered by it shall be considered a privilege, not a right, as provided under CWC Section 13263.
11. This Order does not address the cleanup of existing degraded surface and groundwater from past dairy operations. Any required cleanup actions are handled under separate authority under the CWC.
12. This Order applies to dairies that pose a low or insignificant risk to surface water or to groundwater. Dairies that are Concentrated Animal Feeding Operations (CAFOs) and discharge to waters of the United States are required to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit (e.g., Order No. R1-2012-0001). Dairies that potentially pose a significant threat to water quality may be regulated by General Waste Discharge Requirements (e.g., Order No. R1-2012-0002).
13. This Order does not cover discharges associated with activities that are not described in this Order. For example, it does not cover discharges of hazardous material, human waste, or mining waste. Discharges of waste not specifically covered under this Order are prohibited, except in compliance with the CWC.
14. Point source discharges to waters of the United States, as defined by federal law, are not authorized under this Order. Point source is defined as any discernible,

confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, CAFO, or vessel or other floating craft, from which pollutants are or may be discharged (reference federal Clean Water Act (CWA) Section 502(14)). CAFOs, as defined in 40 Code of Federal Regulations (CFR) 122.23(b) or designated in accordance with 40 CFR 122.23(c), are point sources. Nonpoint discharges include agricultural stormwater discharges and return flows from irrigated agriculture. The State Water Resources Control Board's (SWRCB's) 2004 Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy) requires that nonpoint source discharges of waste be regulated by WDRs, waiver of WDRs, or prohibitions to ensure compliance with Regional Water Board Water Quality Control Plans.

15. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan) and SWRCB plans and policies, including SWRCB Resolution No. 88-63, and consistent with the CWA, the existing and potential beneficial uses of waters in the North Coast Region include one or more of the following:
  - a. Municipal and Domestic Supply (MUN)
  - b. Agricultural Supply (AGR)
  - c. Industrial Service Supply (IND)
  - d. Industrial Process Supply (PRO)
  - e. Groundwater Recharge (GWR)
  - f. Freshwater Replenishment (FRSH)
  - g. Navigation (NAV)
  - h. Hydropower Generation (POW)
  - i. Water Contact Recreation (REC-1)
  - j. Non-Contact Water Recreation (REC-2)
  - k. Commercial and Sport Fishing (COMM)
  - l. Cold Freshwater Habitat (COLD)
  - m. Warm Freshwater Habitat (WARM)
  - n. Wildlife Habitat (WILD)
  - o. Preservation of Areas of Special Biological Significance (ASBS)
  - p. Preservation of Areas of Special Rare, Threatened, or Endangered Species (RARE)
  - q. Marine Habitat (MAR)
  - r. Migration of Aquatic Organisms (MIGR)
  - s. Spawning, Reproduction, and/or Early Development (SPWN)
  - t. Shellfish Harvesting (SHELL)
  - u. Estuarine Habitat (EST)
  - v. Aquaculture (AQUA)
  - w. Native American Culture (CUL)
  - x. Flood Peak Attenuation/Flood Water Storage (FLD)
  - y. Wetland Habitat (WET)
  - z. Water Quality Enhancement (WQE)
  - aa. Subsistence Fishing (FISH)
  - bb. Inland Saline Water Habitat (SAL)
  
16. The Basin Plan contains water quality objectives, prohibitions, and policies developed to protect the above-listed beneficial uses of water. Economics were considered as required by law during the development of these objectives, prohibitions and policies. Prohibitions, provisions, policies, and other specifications contained in this Order implement the Basin Plan and the CWC. Compliance with applicable water quality objectives, prohibitions, and policies will protect the listed beneficial uses above.

17. Populations of several species of anadromous salmonids listed as threatened or endangered under both the federal Endangered Species Act or the California Endangered Species Act have declined significantly during the past half century in the majority of waterbodies in the North Coast Region. Degradation of freshwater habitat by land use activities is an important contributing factor to the decline in populations.
18. SWRCB Resolution 68-16, entitled "Statement of Policy with Respect to Maintaining High Quality of Waters in California," requires that whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality must be maintained. Resolution 68-16 only allows change in the existing high quality if it has been demonstrated to the Regional Water Board that the change is consistent with maximum benefit to the people of the state, will not unreasonably affect present and anticipated beneficial use of such water, and will not result in water quality less than that prescribed in policies. Resolution 68-16 further requires that discharges meet WDRs which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the state will be maintained.
19. Resolution No. 68-16 incorporates the federal antidegradation policy (reference 40 CFR §131.12). Both Resolution 68-16 and the federal antidegradation policy require that where surface waters are of higher quality than necessary to protect the designated beneficial uses, the high quality of those waters be maintained unless certain findings be made before any adverse change to water quality is allowed.
20. Resolution 68-16 and the federal antidegradation policy acknowledge that an activity that results in an incrementally small decrease of water quality can result in degradation through cumulative effects; especially when a waste that is a cumulative, persistent, or bioaccumulative pollutant is discharged. This Order is consistent with Resolution No. 68-16 and the federal antidegradation policy.
21. California regulations governing discharges from confined animal facilities are contained in Title 27 of the California Code of Regulations (CCR), Division 2, Subdivision 1, Chapter 7, Subchapter 2, Article 1 (Attachment B of this Order). Sections 22560-22565 of those regulations require containment of manure, wash water, and storm water runoff from animal confinement areas. This Order is consistent with Title 27 regulations for confined animal facilities.
22. Numerous North Coast streams are listed as impaired for sediment and temperature, and some are impaired for nutrients and indicator bacteria pursuant

to CWA Section 303(d). To date, the United States Environmental Protection Agency (EPA) has established Total Maximum Daily Loads (TMDLs) for 26 impaired stream segments in the North Coast Region. Compliance with this Order is a key component for compliance with TMDLs.

23. Dairies are no longer covered by Regional Water Board Order No. R1-2007-0098 "Policy for Waiving Waste Discharge Requirements for Specific Types of Waste Discharges." That Order applied to confined animal facilities in the region that did not require a NPDES discharge permit.
24. This Order requires Dischargers to prepare and implement a Water Quality Plan (WQP) (Monitoring and Reporting Program, MRP, Appendix 1) by November 30, 2012. The WQP is intended to help ensure that the dairy is designed, constructed, operated and maintained so that nutrients and wastes generated are managed to prevent conditions of nuisance or adverse impacts to groundwater and surface water.
25. Large CAFOs (700 or more mature dairy cows) that are not point sources and want to enroll under this Order must be implementing a Nutrient Management Plan (NMP) (MRP Appendix 2) upon enrollment if they will discharge stormwater from cropland where manure, litter, or process wastewater has been applied (40 CFR §§ 122.23(e), and 122.42(e)(1)(vi)–(ix) ). Large CAFOs that discharge such stormwater without a NMP are in violation of the CWA and may be fined for the discharge and/or required to enroll under a NPDES permit (e.g., R1-2012-0001). Dairies with less than 700 mature dairy cows are encouraged and recommended to prepare and implement a NMP.
26. Medium Animal Feeding Operations (AFOs) (200-699 mature dairy cows) and small AFOs (less than 200 mature dairy cows) may be designated as CAFOs by the Regional Water Board if the dairy discharges wastes to waters of the United States. Such designated CAFOs would then be required to develop a NMP and apply for coverage under a NPDES permit. A CAFO means an AFO which is defined as a Large CAFO or Medium CAFO by 40 CFR §§ 122.23 (4) and (6), or that is designated as a CAFO by the United States Environmental Protection Agency (USEPA) or the Regional Water Board.
27. Pursuant to CWC Section 13267, a MRP is attached to this Order. Monitoring must be consistent with the dairy's WQP and NMP. The Discharger shall submit all reports as specified in the MRP. Noncompliance reporting, cleanup, and violations are discussed in the MRP. The MRP requires routine individual facility sampling (or group sampling) of stormwater runoff and/or surface waters on or near the dairy. The MRP also requires sampling of existing domestic and agricultural wells. One option for fulfilling these monitoring requirements is to form a representative monitoring group in order to develop and/or administer a local, watershed-based surface or groundwater monitoring program. If the group of

Dischargers can demonstrate that group monitoring will result in meaningful, valid monitoring data, Regional Water Board staff may allow the Discharger group to use data gathered from the representative monitoring program to substitute for some or all of the required monitoring of individual dairies. Approval of the group monitoring plan by Regional Water Board staff is required.

28. Reporting of efforts implemented to achieve sustained water quality protection is required in an Annual Report (MRP Appendix 3) that is due to the Regional Water Board by November 30 each year. The Annual Report shall assess if Best Management Practices (BMPs) for waste containment and nutrient application to land at agronomic rates are effective in preventing discharges to surface water and groundwater for the past year (November 1 of the last year through October 31 of the current year). The Annual Report shall include the results of sampling required in the MRP and the photo documentation described in the MRP. Sampling results are not required to be submitted by individuals if the dairy is in group monitoring. However, Dischargers in a group monitoring plan must indicate the associated group on page 4 of the Annual Report. Regional Water Board staff will review the Annual Report and provide comments if necessary for the dairy facility to meet the Waiver requirements.

#### **CEQA AND ADDITIONAL FINDINGS**

29. The Regional Water Board is the lead agency for purposes of complying with the California Environmental Quality Act (CEQA) Public Resources Code sections 21100-21177. Pursuant to CEQA Guidelines section 15301, this action to adopt Waivers for existing dairies is exempt from the provisions of CEQA under Exemption 1 for "Existing Facilities." CEQA Guidelines section 15301 applies to "...the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination..." This Order involves the permitting of existing dairy facilities, which are defined as cow dairies that are fully constructed and operating as of January 19, 2012, and which have subsequently undergone no expansion in size of their physical facilities. Accordingly, because this Order allows for no expansion in use beyond their existing physical facilities, this Order is exempt from CEQA pursuant to CEQA Guidelines section 15301.
30. Any facility that is a "new source," as that term is defined in CWA Section 306 and CFR, Title 40, Sections 122.2 and 122.29, must demonstrate that it is an "existing facility" under CEQA Guidelines Exemption 1 for Existing Facilities (CCR, Title 14, §15301) before coverage under this Order can be issued for the project. New sources that do not qualify for the Existing Facilities categorical exemption will be required to submit an application for Individual WDRs. Action on Individual WDRs requires separate CEQA compliance.

31. Two additional CEQA categorical exemptions are also applicable to this action. CEQA Guidelines Exemption 2 for Replacement of Existing Structures (Cal. Code of Regs., tit. 14, §15302) exempts “replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” Consistent with the categorical exemption for Replacement of Existing Structures, this Order may require covered CAFOs to replace or reconstruct ponds or other structures on the facility to ensure proper function in compliance with this Order. CEQA Guidelines Exemption 4 for Minor Alterations (Cal. Code of Regs., tit. 14, §15304) exempts “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes...” Consistent with the categorical exemption for Minor Alterations, this Order may require covered CAFOs to make improvements to their facilities that will result in minor alterations to land, water, and/or vegetation.
32. Food and Agricultural Code section 33487 exempts state agencies from any requirement to prepare a CEQA environmental impact report for CAFOs under the following circumstances: (1) when the CAFO will be constructed and operated in accordance with the minimum standards in Chapter 5 of the Food and Agricultural Code; (2) where the applicable local agencies have completed all necessary reviews and approvals including that required by CEQA; and (3) where a permit for construction was issued by a local agency on or after the effective date of Food and Agricultural Code section 33487 and construction has begun.
33. The Regional Water Board conducted a public hearing on January 18 & 19, 2012, in Santa Rosa, California, and considered all evidence concerning this matter and adopted the CEQA Notice of Exemption.
34. The Regional Water Board has reviewed the contents of this Order, related CEQA Notice of Exemption, written public comments, and testimony provided after the notice and hearing, and hereby finds that the adoption of this Order is consistent with the Basin Plan, and is in the public interest.

**THEREFORE**, the Regional Water Board hereby approves and adopts the “CEQA Notice of Exemption” prepared on this Order, and directs the Executive Officer to file all appropriate notices; and

**IT IS HEREBY ORDERED** that this Order is issued for existing cow dairies in the North Coast Region that involve no expansion of their physical facilities from the date of the adoption of this Order. Physical facilities include the roofed structures, such as stall barns, that limit the size of the dairy cow herd (see Definitions Attachment C). The following conditions apply to dairies covered by this Order:

1. This Order contains a schedule of compliance to complete and submit: (a) a Notice of Intent (NOI), (b) a WQP, and (c) Annual Reports. Large CAFOs must meet Federal CAFO requirements upon enrollment under this Order. BMPs must be in place as needed to avoid pollutant discharges to surface waters and groundwater.
2. New waste storage facilities constructed after adoption of this Order must meet all applicable federal, state, and local laws and regulations. Waste storage facilities should be located outside of floodplains; however, if site restrictions require location within a floodplain, they shall be protected from inundation or damage from a 100-year flood event, or larger if required by laws, rules and regulations.
3. New manure ponds constructed after adoption of this Order must comply with Natural Resources Conservation Service (NRCS) Waste Storage Facility Code 313 including a maximum specific discharge (unit seepage rate) of  $1 \times 10^{-6}$  cm/sec.
4. Existing manure pond liners must meet or exceed the Title 27 requirements for a minimum of 10% clay and not more than 10% gravel, or the liner must be constructed of artificial materials of equivalent or greater impermeability.
5. To qualify for the Order, large animal facility operations of 700 or more mature dairy cows are by definition designated Concentrated Animal Facility Operations (CAFOs) (Per federal regulations, to designate a medium AFO as a CAFO, see requirements at 122.23(c) or a medium AFO can be defined a CAFO pursuant to 122.23(b)(6)(ii).). CAFOs must meet specific requirements listed in the NMP (MRP Appendix 2). Medium AFOs (200-699 mature dairy cows) and small AFOs (less than 200 mature dairy cows) may be designated as CAFOs by the Regional Water Board if the facility discharges waste. The federal NPDES regulations state at 40 CFR 122.23(e)(1) that for unpermitted large CAFOs, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO shall be considered an agricultural stormwater discharge only where the manure, litter, or process wastewater has been land applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified in § 122.42(e)(1)(vi) through (ix). Agricultural stormwater is exempt from NPDES permitting requirements. To qualify for this Order, Large CAFOs must implement a NMP at the time of enrollment (40 CFR Sections 122.23(e) and 122.42 (e)(1)(vi)-(ix)). Large CAFOs without a NPDES permit are only afforded the agricultural stormwater exemption if the NMP requirements have been met at § 122.42(e)(1)(vi) through (ix).
6. This Order, and any enrollment under this order: 1) is conditional, 2) may be terminated at any time, 3) does not permit any illegal activity, 4) does not preclude the need for permits which may be required by other federal, state or local

governmental agencies, and 5) does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the CWC.

7. All discharges from a dairy enrolled under this Order must comply with the lawful requirements of all municipalities, counties, drainage districts, and other local agencies regarding discharges of stormwater to storm drain systems or to other watercourses under their jurisdiction that are no less stringent than the requirements of this Order.
8. The Discharger shall comply with all federal, State, county, and local laws and regulations pertaining to the discharge of wastes from the dairy that are no less stringent than the requirements of this Order.
9. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the Discharger from liabilities under federal, state, county, or local laws, nor guarantee the Discharger a capacity right in receiving waters.
10. In addition to the requirements of this Order, the Discharger shall take all other reasonable steps to minimize or prevent any discharge that has a reasonable likelihood to adversely affect human health or the environment.
11. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the Federal Endangered Species Act (16 United States Code (U.S.C.) Sections 1531 to 1544). Dischargers shall be responsible for meeting all requirements of the applicable Endangered Species Act. A discharge which is deleterious to fish, plant life, mammals, or bird life or otherwise in violation of California Fish and Game Code Section 5650 is not a discharge which is authorized nor in compliance with the terms and conditions of this Order. The Discharger shall obtain permits as necessary, and comply with permit conditions and all other applicable federal, state, county, and local, laws and regulations.
12. This Order may be re-opened for modifications, revoked and reissued, or terminated.
13. The discharge of waste from a dairy shall not cause the underlying groundwater to exceed water quality objectives or background quality standards; nor cause a condition of pollution or nuisance.
14. Regional Water Board staff acceptance of dairy enrollment under this Order can provide a basis for rescinding permit coverage for that dairy under an Individual WDR or the Industrial Stormwater NPDES permit if the Discharger requests, in

writing, termination of that coverage. A written termination request should be submitted to the Regional Water Board at the time of submission of the NOI for coverage under this Order. A request for termination of coverage under the Industrial Stormwater Permit shall include a completed Notice of Termination (NOT) form.

15. Activities conducted under this Order must be in compliance with water quality requirements, the Basin Plan, and amendments thereto.
16. Violations of this Order are subject to enforcement to the extent allowed by law.

### **MONITORING AND REPORTING PROGRAM (MRP)**

17. Pursuant to CWC Section 13267, a MRP is included with this Order. This Order requires the Discharger to prepare and implement a WQP as described in Finding 24.
18. Preparation and implementation of a NMP is encouraged and recommended, but not required for most dairies. However, large CAFOs as defined above must be implementing a NMP upon enrollment in this Order. Progress in NMP development and implementation shall be reported in the Annual Report. The services of a professional with the required experience in that field shall be used where required by the WQP and NMP.
19. If the Discharger identifies deficiencies, defects, and/or impending failures in any process water conveyance, control structure, and/or retention structure, the Discharger must notify the Regional Water Board within 24 hours of identifying the deficiency and take immediate action to prevent any unauthorized release of waste. The Discharger must notify the Regional Board when corrective actions are completed and must document the corrections in the Annual Report.
20. Other reporting, cleanup, and violations are discussed in the MRP. If noncompliance is being reported, the reasons for such noncompliance shall be submitted in writing to the Regional Water Board with an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Regional Water Board by letter when it returns to compliance. Violations may result in enforcement action, including Regional Water Board or court orders requiring corrective action or imposing civil monetary liability, or in terminating the applicability of this Order to a specific facility or Discharger.
21. If the Regional Water Board Executive Officer notifies the Discharger that his/her WQP, NMP, Annual Report, sampling results, or other associated documents are not consistent with this Order, then the Discharger shall submit the revisions or proof of the corrections to the Regional Water Board within 30 days of notification, unless otherwise instructed in writing by the Regional Water Board.

## PROHIBITIONS

22. The collection, treatment, storage, discharge, or disposal of wastes at an existing dairy that results in (1) discharge of waste constituents in a manner which could cause degradation of surface water or groundwater except as allowed by this Order, (2) contamination or pollution of surface water or groundwater, (3) a condition of nuisance (as defined by the California Water Code Section 13050), or (4) exceedence of groundwater and surface water quality objectives due to the discharge of manure, production area wash water, or dairy feeding and housing area wash water, is prohibited.
23. The discharge of wastes not disclosed by the Discharger, or not within the reasonable contemplation of the Regional Water Board, is prohibited.
24. Discharges of manure, process water, or other wastes to surface waters or groundwater, or discharges that do not comply with the requirements in this Order are prohibited.
25. The discharge of stormwater that has come in contact with manure, process water, or other wastes from the production or animal housing areas is prohibited.
26. The discharge of waste to surface water via tile drain lines or irrigation return flow (tailwater) is prohibited.
27. The direct discharge of wastes into groundwater via backflow through water supply or irrigation supply wells is prohibited.
28. Irrigation supply water that comes into contact with manure or process water shall be considered process water, and its discharge to surface water is prohibited.
29. A discharge of stormwater to surface water from the land application area where manure or process water has been applied is prohibited unless specific management practices have been implemented. These management practices must be consistent with a WQP, NMP or, if the WQP and NMP have not yet been required to be implemented, then land application areas must be managed consistent with BMPs, as described in this Order.
30. The disposal of dead animals in any liquid manure or process water system is prohibited. The Discharger must dispose of dead animals in compliance with all applicable federal, state, county, and local laws and regulations. Adverse impacts to surface water or groundwater quality as a result of dead animal disposal is prohibited.

31. In accordance with Attachment B, the Discharger shall prevent animals at their facility from entering any surface water within the confinement areas.
32. The application of waste to lands not owned, leased, or controlled by the Discharger without written permission from the landowner or in a manner not approved by the Regional Water Board, is prohibited.
33. Discharges of manure, litter, or process water from the land application area that do not comply with the requirements in the WQP, NMP, or MRP, and the Statewide Water Quality Regulations for Confined Animal Facilities, are prohibited. The application of manure or process water to a land application area in a manner that results in the discharge of wastes is prohibited.

### **ENROLLMENT PROCESS**

34. If the dairy operation meets the conditions of this Order, then the Discharger shall apply for coverage by submitting a completed Notice of Intent (NOI) Form (Attachment A) on or before April 30, 2012 or upon notification from the Regional Water Board to comply with this Order. If the Discharger becomes aware that a relevant fact was omitted in an NOI, or incorrect information was submitted in a NOI or in any report to the Regional Water Board, it shall promptly submit the correct facts or information. A dairy is covered under this Order upon Regional Water Board approval of a completed NOI to the Regional Water Board. Completed forms shall be sent to the Regional Water Board at the following address:

North Coast Regional Water Quality Control Board  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403

35. No fees are currently required to apply for this Order.
36. The Regional Water Board shall determine compliance with the terms of this Order based on the following:
  - a. Periodic inspections by Regional Board staff and/or contractors;
  - b. Evaluation of the completed Annual Report and required information submitted according to the MRP;
  - c. Review of progress on the dairy WQP and any NMP; and
  - d. Any other information deemed necessary by the Regional Water Board.
37. The Regional Water Board staff may require, as appropriate, additional management practices and/or monitoring on a site specific or watershed basis. Future management practices and/or monitoring requirements may also be imposed by Regional Water Board staff.

38. The Regional Water Board may give special TMDL nutrient offset dairy projects an alternative schedule for enrollment and submittal of associated documents for a maximum of two years past the due dates in this Order. These TMDL nutrient offset dairy projects must provide temporary best management practices of equivalent or greater water quality protection in the interim. Also, these projects must be of long-term water quality benefit to the watershed.
39. The Discharger shall maintain a copy of this Order, the MRP, and the WQP, and NMP and make them available at all times to site-operating personnel. The Discharger shall ensure that all site-operating personnel are familiar with the content of these documents and help to carry out the water quality protection measures.
40. The Regional Water Board and other authorized representatives shall be allowed:
  - a. Entry upon premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order;
  - b. To review or to copy any records that are kept under the conditions of this Order;
  - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
  - d. To photograph, sample, and monitor for the purpose of assuring compliance with this Order.

#### **RECORD-KEEPING REQUIREMENTS**

41. The Discharger shall create, maintain for five years, and make available to the Regional Water Board during inspections and upon request by the Regional Water Board staff, any reports or records required by this Order including those required under the MRP, WQP, or NMP.
42. A manifest is required to record transfer of waste to outside facilities.

#### **TRANSFERS**

43. The Discharger must notify the Executive Officer in writing at least 30 days in advance of any proposed transfer of responsibility and coverage under this Order to a new Discharger (dairy owner). The notice must include a new NOI for the proposed Discharger, a Notice of Termination (NOT) for the existing Discharger, and a specific date for the transfer of responsibility for complying with this Order. This notification shall include an acknowledgment that the existing Discharger is liable for compliance with this Order and for all violations up to the transfer date,

and that the new Discharger is liable for compliance with this Order after the transfer date.

### **PERMIT REOPENING, REVISION, REVOCATION, AND RE-ISSUANCE**

44. The Regional Water Board will review this Order periodically and may revise requirements when necessary for reasons including, but not limited to:
  - Adoption of more stringent applicable water quality standards in the Basin Plan;
  - Changes in state plans, policies, or regulations that would affect the requirements for the discharges.
45. The Regional Water Board may revoke coverage under this Order at any time and require the Discharger to submit a Report of Waste Discharge or equivalent document and to obtain a GWDR, an individual WDR, a NPDES permit, or other permit.
46. The provisions of this Order are severable; and, if any provision of this Order, or the application of any provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this Order shall not be affected thereby.

### **TERMINATION**

47. In the event of closure or change in land use of the dairy, the Discharger shall file a NOT with the Regional Water Board to terminate coverage under the Order. Upon cessation of dairy facility operation, all manure and animal waste-impacted soil is to be treated and stored appropriately so as not to pose a threat to surface water or groundwater quality or create a condition of nuisance.
48. The Regional Water Board staff shall review the NOT and determine its appropriateness. The review may include a field staff inspection to verify project completion and water quality protection. The Executive Officer shall notify the Discharger regarding approval or disapproval of the NOT.
49. The Discharger shall, within 30 days of receiving notice from the Regional Water Board that its facility no longer qualifies for coverage under this Order for failure to comply with its terms and conditions, file an updated ROWD or equivalent document for coverage under another permit type. Discharges that could affect the quality of the waters of the state may commence only in accordance with CWC Section 13264(a).
50. Dischargers who fail to comply with the terms and conditions of this Order shall be subject to appropriate enforcement action or may be required to enroll under another dairy permit type. Discharges that could affect the quality of the waters of

the state may commence only in accordance with CWC Section 13264(a). The Regional Water Board Executive Officer reserves the right to terminate a discharger's coverage under this Order. The Regional Water Board staff can require coverage under another permit such as the conditional Waiver, NPDES, or Individual Waste Discharge Requirements, after proper notice and hearing (CWC Section 13263).

51. Regional Water Board shall terminate the applicability of this Order to any dairy activities at any time when such termination is in the public interest and/or the activities could affect the quality of beneficial uses of the waters of the state.

Certification:

I, Catherine Kuhlman, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on January 19, 2012.

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Catherine Kuhlman  
Executive Officer

## **ATTACHMENTS**

Attachment A – Notice of Intent

Attachment B – Statewide Water Quality Regulations for Confined Animal Facilities  
(Title 27)

Attachment C – Definitions

Monitoring and Reporting Program (MRP)

Appendix 1 – Water Quality Plan (WQP)

Appendix 2 – Nutrient Management Plan (NMP)

Appendix 3 – Annual Report